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इस भाग में भिन्न पृष्ठ संख्या हो जाती है जिससे कि यह घलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों प्रौर (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किये गए विशिक प्रावेश प्रौर प्रधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).**MINISTRY OF LABOUR AND REHABILITATION**

(Department of Labour and Employment)

New Delhi, the 24th March 1972

S.O. 950.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following Interim award of the Central Government Industrial Tribunal, Calcutta, in the matter of a complaint under section 33-A of the said Act from Shri Sachindra Nath Bose of the Calcutta Insurance Limited, Calcutta, which was received by the Central Government on the 17th March, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

MISC. APPLICATION No. 2 OF 1971

(Arising out of Reference No. 31 of 1971)

PARTIES:

Sri Sachindra Nath Bose, 13 F, Bright Street,
Calcutta-17—Applicant.

Vs.

Calcutta Insurance Limited, 24, Chittaranjan
Avenue, Calcutta.—Opp. party.

PRESENT:

Sri S. N. Bagchi, Presiding Officer.

APPEARANCES:

On behalf of Applicant.—Sri B. Malkhandi, Bar-at-Law with Sri S. C. Ukiil, Bar-at-Law.

On behalf of Opp. party.—Sri J. S. Gupta, Labour Adviser with Sm. Santi Gupta, Advocate.

STATE: West Bengal

INDUSTRY: Insurance.

INTERIM AWARD

By Order No. 40/43/70-LR.I, dated 6th February, 1971, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, has made a reference to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947, for adjudication of an industrial dispute, existing between the employers in relation to the Calcutta Insurance Limited, Calcutta and their workmen, in respect of the matters scheduled below:

“Whether the demands of the All India General Insurance Field Workers Association on the management of the Calcutta Insurance Company Limited in respect of their field staff, namely, development officers, inspectors and organisers under the following heads are justified? If so, to what relief are they entitled?

- (i) To frame regulations for their service conditions.
- (ii) Scales of Pay, dearness allowance and house rent allowance.
- (iii) Travelling allowance.
- (iv) Medical Benefits.”

Reference was registered, being Reference No. 31 of 1971. The Calcutta Insurance Limited, the Opposite party and the Union representing the workmen of the Calcutta Insurance Limited, Calcutta, have filed their respective statement of cases. The reference is pending adjudication before this Tribunal and has been fixed for peremptory hearing on 14th March, 1972.

2. One Sachindra Nath Bose filed a complaint before this Tribunal under Section 33A of the Industrial Disputes Act, 1947 complaining that the Opposite party, Calcutta Insurance Limited has been guilty of contravention of the provisions of Section 33 of the Industrial Disputes Act during the pendency of the Reference No. 31 of 1971 before this Tribunal. He alleges *inter alia* that he was appointed by the Calcutta Insurance Limited as Inspector of Agencies. The appointment letter does not convey all the conditions of service which are in issue in the dispute under Reference No. 31 of 1971. The workman petitioner along with others has demanded graded pay scale and dearness allowance. The petitioner as a field staff of the Calcutta Insurance Limited is concerned in the dispute under reference. In contravention of the provisions of Section 33 of the Industrial Disputes Act, the Calcutta Insurance Limited, the Opposite party, has drastically reduced the remuneration of the petitioner and has thereby illegally changed the conditions of his service. The Annexure 'A' to the complaint petition is the letter of appointment of the petitioner. Annexure 'B' is a letter by the Insurance Company to the petitioner relating to revision of remuneration of the petitioner with effect from 1st March, 1971. Annexure 'C' is the complaint dated 9th March, 1971 made by the petitioner to the Secretary of the Calcutta Insurance Limited. The petitioner prays that a decision may be rendered by the Tribunal in the matter complained of by the petitioner against the Insurance Company, Opposite party.

3. On 18th July, 1971 the Insurance Company Opposite party, filed a statement in opposition against the petition of complaint of the petitioner Sachindra Nath Bose. In the said statement the Opposite party took several grounds of objection. The two main grounds in the statement in opposition are: (i) The application is not maintainable in law; (ii) The applicant is not a workman under the Industrial Disputes Act and as such he has no competence to file the application under Section 33A of the Industrial Disputes Act. The rest of the contents in the statement in opposition is not now material.

4. On 21st February, 1972 the matter came up for hearing. The application under Section 33A filed by the petitioner was found defective in form and required amendment. Direction was accordingly given to the petitioner to amend the application and to bring it in proper form with materials, necessary for proper constitution of the application. On 23-2-1972 for the petitioner's learned Counsel filed a petition for leave to amend the original application in accordance with the order of the Tribunal dated 21-2-1972. By the direction of this tribunal, the Opposite party was required to file objection on 23-2-1972 against the petitioner's application for leave to amend the original application but the Opposite party failed to do so, and was, however, allowed time to file the objection on 24-2-72.

5. On 24-2-1972, the objection was filed by the Insurance Company, Opposite party, against the application of the petitioner for leave to amend the original application under Section 33A of the Industrial Disputes Act. The entire matter was fixed for hearing on 24-2-1972. Upon hearing the learned Counsels of both the sides on the application for leave to amend the original application under Section 33A of the I.D. Act and the objection thereto filed by the Opposite party, the prayer of the petitioner for leave to amend the original application was allowed over-ruling the objection of the Opposite party. The prayer for leave to amend the original application under section 33A to amend the original application containing the proposed amendment of the I.D. Act was then allowed to be made a part of the original application. By amending the original application the petitioner stated that he was appointed as a Development officer at a consolidated salary and allowance of Rs. 350 per month during the probationary period

which was 6 months only and he joined the company on or about 15th July, 1969. On 23rd April, 1970 the company substituted the consolidated remuneration of the petitioner for the purpose of Provident Fund into basic salary and allowance from April 1, 1970, being Rs. 260 basic pay and fixed conveyance allowance of Rs. 90 (vide paragraph 2 of the original application as amended). Amending paragraph 4 of the original application, the petitioner stated that on February 27, when the petitioner went to take his salary he found that Rs. 50 had been deducted from his salary. The petitioner immediately reported the matter to the Secretary of the said Company and protested by a letter dated 27th February, 1971 to which the company did not reply. Thereafter the petitioner by two letters dated 1st March, 1971 and 3rd March, 1971 requested the Secretary of the Company to release his full consolidated remuneration of Rs. 350. The Company agreed to pay the petitioner his full consolidated remuneration month by month and every month. Subsequently the petitioner received his full consolidated remuneration of Rs. 350 on or about 5th March, 1971 but suddenly in the same evening i.e. on March 5, 1971 by a letter the company informed the petitioner that it has revised and reduced the consolidated remuneration of Rs. 350 to basic remuneration of Rs. 260. By the said letter the company asked the petitioner to introduce a premium income of Rs. 40000 annually on Fire, Marine and Miscellaneous business. The Company revised and reduced the consolidated remuneration of Rs. 350 of the petitioner to basic remuneration of Rs. 260 and/or the Company had taken away the conveyance allowance without giving any opportunity to the petitioner to represent his case or without any discussion with the petitioner. The petitioner asserts that the company wrongfully and illegally cut and altered the consolidated remuneration to the prejudice of the petitioner during the pendency of the proceedings in Reference No. 31 of 1971 and without the permission of this Tribunal thereby violating the conditions of service of the petitioner within the meaning of Section 33 of the Industrial Disputes Act (vide paragraph 3 of the amended application amending paragraph 4 of the original application under Section 33A of the I. D. Act). By amending paragraph 1 of the original application under Section 33 of the I. D. Act and introducing, therefore, the paragraph 1(a), the petitioner asserts that in the Reference No. 31 of 1971 pending before this Tribunal, the workmen are represented in the industrial dispute under reference by All India General Field Workers' Association, Eastern Region Committee, 4 Lyons Range, Calcutta. The Association represents the field staff who are classified as Inspectors, Supervisors and Development Officers in different General Insurance companies including the Calcutta Insurance Limited. The petitioner is concerned in the pending dispute.

6. In the statement objecting to the amendment of the original application under Section 33A of the Industrial Disputes Act, the company Opposite party stated *inter alia* that the reference before the Tribunal was invalid as there was no industrial dispute involved and that Sachindra Nath Bose was not a workman and was not concerned in the dispute. Other matters in the objection petition are now not relevant.

7. When the matter, relating to the application under Sec. 33A of the I. D. Act as allowed to be amended and the statement in objection to the original complaint under Section 33A of the Industrial Disputes Act and the amended complaint were taken up for hearing, the learned Counsel for the Opposite party submitted that the preliminary point affecting the jurisdiction of this Tribunal to entertain the complaint of the petitioner under Section 33A of the Industrial Disputes Act should first be heard and decided before deciding the merit of the application and the rejoinder of the company thereto. The learned Counsel submitted that the petitioner was not a "workman" within the provisions of the Industrial Disputes

Act was, therefore, not entitled to maintain application under Section 33A of the Industrial Disputes Act. The learned counsel for the petitioner agreed that only the preliminary point should first be heard and decided. Accordingly, the tribunal took up only the preliminary point as to whether the applicant is a workman within the provisions of the Industrial Disputes Act, if not, whether he can maintain the application under Section 33A of the said Act.

8. Sachindra Nath Bose, the complainant petitioner examined himself as a witness and he was cross-examined. Anil Kanti Ghose Development Manager of the Insurance Company, hereinafter called the Company, was examined by the Company Opposite party and was cross-examined by the petitioner. The original letter of appointment dated 10th July, 1969, as Ext. MA, was admitted in evidence. By the letter Ext. MA, dated 10th July, 1969 issued by the Secretary of the Company and accepted by the petitioner Bose on 10-7-1969, the petitioner was appointed with effect from 1-8-1969 or from any earlier or later date under the terms and conditions as in clauses 1, 2, 3, 4, 5 and 6 of the said letter. He has been designated by Ext. MA as Development Officer. Clause 3 of the letter Ext. MA under head "Duties" reads as follows:

"Your functions will be—

- (i) to recruit, train and control the agency force in your jurisdiction;
- (ii) to service business under your jurisdiction;
- (iii) to perform such other duties as may be entrusted to you by the company."

Clause 4—Stipulation reads as follows:

"You will so guide and control your organisation so as to produce a premium collection of at least Rs. 50,000 (Fifty thousand) only in the 1st year and not less than the same amount in subsequent years on fire, marine and motor and miscellaneous business acceptable to the company.

Clause 5—Remuneration reads as follows:

"You will be entitled to a remuneration of a consolidated salary and allowance of Rs. 350 per month during your probationary period.

Clause 6—Terms—in relevant parts reads as follows:

"Your business position will be reviewed periodically but not later than three months. Failing completion of the stipulated premium when so reviewed your remuneration will be liable to be revised. The Company reserves the right to review and alter the terms of appointment if either the business position or your services are found to be unsatisfactory."

The petitioner claims that he is a workman under the provisions of the Industrial Disputes Act. The Opposite party in paragraph 11 of the objection petition, while denying the petitioner's statement in paragraph 3 of the original application that he as field staff of the Calcutta Insurance Limited was concerned in the dispute, asserts that the petitioner is not a workman as defined in the Industrial Disputes Act as he does not perform any of the functions enumerated in the definitions clerical, manual, supervisory or technical. In paragraph 10 of the original objection petition referring to paragraph 2 of the statement of petitioner in the original application under Section 33A of the I.D. Act, the company admits that the appointment letter contains all the service conditions. So, according to both the parties, the conditions of service of the petitioner are governed by the letter, Ext. MA. The petitioner, according to the company, is the Development officer of the Insurance company. Let us now examine the relevant clauses and portions thereof in Ext. MA. As Development officer (vide paragraph 1 of Ex. MA) his

area of work is Calcutta city and its suburbs (vide paragraph 2 of Ex. MA) and in that area other workers are also to operate. Clause 3 of Ex. MA specifies the functions of the Development officer, i.e. the petitioner is to recruit, train and control the agency force in his jurisdiction; to service business under his jurisdiction and to perform such other duties as may be entrusted to him by the company. He will be a whole time worker of the company and shall abide by the rules and regulations laid down by the company and/or by the Controller of Insurance, Government of India and/or under any Act prevalent for the time being. Under clause 4 of Ex. MA—Stipulation—he will guide and control the organisation so as to produce a premium collection of at least Rs. 50,000 only in the 1st year and not less than the same amount in subsequent years on fire, marine and motor and miscellaneous business acceptable to the company. The other conditions are not now relevant. The Development Manager of the Company, MW1, said in his examination-in-chief, "Sri Bose as Development officer is to introduce agents to the company and train them and collect business through them and render services to the policy holders. The conditions of service in regard to Sri Bose have been laid down in his appointment letter". In cross-examination he said that Sri Bose is to contact several persons known to him or introduced to him for introducing agents to the company through whom business of the company is collected. Agents are appointed by the Company introduced by Sri Bose. In other words, as the Development Manager said, Bose the Development Officer is to explain to the agents the nature of business acceptable by the company, the rates of premium for different nature of insurance, class of insurance acceptable to the company and other details of procurement of business. In the company, the Development Manager said, there is no definite rule relating to equipments necessary for qualifying a person as a Development officer. While recruiting a Development officer the company ascertains if the candidate has the preliminary knowledge about insurance business and the manner in which the insurance business is performed. The Development Manager, MW 1, said in cross-examination, "By controlling the agent as in paragraph 3(i) of the letter of appointment, I mean that in case where an agent has licence for introducing business in 3 companies, the Development officer would accommodate that agent who would introduce largest number of business to the company, in comparison to the business introduced to the other companies, of which he is in charge of development. A Development officer is to control at least three agents, but he can control any number of agents. In controlling the agents the Development officer may have to visit the houses of the agents or he may have to meet the agents at his office. Within the control clause the development officer is to supervise the business which an agent has proposed for introduction to the company and the prospective business that he would introduce to the company. In other words the volume of the activity of the agent is to be controlled by the Development officer by supervising their work. The Development officer may have to approach the client who is likely to purchase a policy of insurance but that is his own choice and the company does not give any direction in that behalf. To "service business" as in clause 3(ii) of the letter of appointment means: A client proposes to insure a wooden building, the rate of premium of which is very high. The Development officer may propose that if the wooden portion of the building be substituted for concrete construction, the rate of premium insurance would be lower than that of the wooden building. This type of service is called to service business. To service business the Development officer may have to visit the places where the particular building is situated and the nature of construction of such building. So far as I know no other duty other than those in sub-clauses (i) and (ii) of clause 3 of the letter of appointment was entrusted with the applicant Sri Bose by the company, during the

period he has been serving under the company as Development officer. They are not to perform any clerical work. A Development officer is not required to perform any clerical work pertaining to the establishment of the insurance company. The main duty of the Development officer is to secure through the agents under him with his area the largest number of profitable business to the company by exercising his personal tact, ability and dexterity in acquiring business through such agents". A development officer cannot be an agent. The Development officer, as the Development Manager said in cross-examination, does not approach a prospective client without through the agent. The Development officer, as the Development Manager said in cross-examination, is not required to deal with claims of clients in any manner and is not required to make survey of the claim.

9. The applicant Sachindra Nath Bose in 1962 passed the Inspectorship examination of the Insurance business. He first worked as Development officer in Oriental, Fire & General Insurance and then in the Indian Trade and General Insurance Company before coming to the present company. He selects agents and recommends them to the company. For selection agents he is to contact people going round his area. He trains agents as to how they are to contact parties, to convince them of the necessity of insurance, to persuade them to purchase a policy and explain to the parties the advantage of purchasing a particular policy. While training agents, the Development officer Bose said, that if agents fail to convince the client about the necessity for purchasing a insurance policy they were advised to requisition Bose's services so that the client may be persuaded to purchase the policy through the agent. He is the only Development officer, as Bose said, who trains the agent and offers to the agents any help when they require in negotiating the purchase of a policy by a client. When an agent reports to Bose that he could not tackle a party, he himself visited the party and tackled with him. He explained the expression "to service" in clause 3(ii) of Ex. MA saying that when a party comes to him and reports that there had been a theft in the insured property and asked his advice as to what he was to do he explained the procedure to the party of filing the claim. While claim surveyor visits the locality, Bose, as Development officer, accompanies him. In case, of small claims the Company deputes the Development officer to assess the claim. Bose stated in his examination in-chief that he inspects the work of agents and submit report to the Development Manager of the Insurance company and his work is supervised by the Development Manager. He said, "I am completely in charge of supervising the work of agents under my control". He deposits proposal forms with the company and hands over certificate or coverage form issued by the company to the party and at times he hands over a policy issued to a party visiting him. The Development Manager, MW 1, gave no further detailed description of the nature of duties attached to the office of the petitioner Development officer, nor did he speak of the powers vested in him besides what are there in Ex. MA clauses, 1, 2, 3, 4 and 5. According to the Development Manager, Bose, the Development officer, is to introduce agents to the company, train them and collect business through them and render services to the policy holders. Clause 3(i) of Ex. MA contains three words—to recruit, train and control the agency force. From the evidence, as I have recorded and discussed, the Development officer i.e., the petitioner Bouse tours in his area, contacts, people, finds out suitable persons likely to be appointed an agent of the company. He thus introduces the prospective agents to the company. The company selects from amongst those introduced by the Development officer, and appoints agents and dismisses them. So, the Development officer is not to recruit any agent but to introduce persons to the company for selection and recruitment as agent by the company. He does not control "agents" by appointing, transfer-

ring or taking disciplinary action against them (see the legal connotation of "Control" in AIR 1966 Supreme Court 441, AIR 1967 Supreme Court 903). The control as understood in law in regard to the agency force is exercised by the Company itself and not by the Development officer i.e. the petitioner. Now, agents are appointed, paid and dismissed by the company. The Development officer, that means the petitioner, is to explain to the agents the nature of business acceptable by the company, the rates of premium of different nature of insurance, class of insurance acceptable by the company and other details relating to procurement of insurance business, vide cross-examination of MW 1, the Development Manager. The Development officer, the petitioner, while training the agents instructs them how to contact parties, convince them of necessity of insurance, how to persuade them to purchase a particular policy and what are the advantages of purchasing a particular policy. He is to inspect the performance of work done by agents. He is not only a trainer but also a guide to the agents who are primarily responsible for collecting business from the prospective clients for and on behalf of the company. He is also a guide and adviser to clients. From the totality of the evidence adduced by the Development Manager and the petitioner, I can safely conclude that the main part of the work of the Development officer Sri Bose, the petitioner, is supervision of the work of agents under him. He supervises the work of the agents mainly for two purposes, firstly, to see that sound business upto the volume of business stipulated by the Development officer with the company as in Ex. MA was introduced by the agents working under his control or as a matter of that his charge and, secondly, to ensure that the volume of business as stipulated by him with the company vide Ex. MA does not fall below the stipulated standard through any default in the work of introducing sound business for the company, committed by the agents under his charge, bringing him, by such default of the agents, within the mischief of Clause 6—Terms in Ex. M.A. The relative part of Clause 6—Terms—reads as follows:

"Your business position will be reviewed periodically but not later than three months. Failing completion of the stipulated premium when so reviewed your remuneration will be liable to be revised. The Company reserves the right to review and alter the terms of appointment if either the business position or your services are found to be unsatisfactory."

In order to achieve the two main objects for his own personal interest as well as for the larger interest of the company, Bose, the Development Officer, is to organise and train in the manner he has said the agents working under his control i.e. charge. To service business [Clause 3(ii)] of Ex. MA means nothing more than guidance given by the Development Officer Bose, not only to agents in procuring sound insurance business for the company from clients but also to prospective clients by offering advice relating to negotiations of the terms for purchasing a particular type of policy of insurance advantageous to the client through a particular agent under his charge. Clause 3(iii) covers a vague term. From the evidence it could not be ascertained if the company had ever entrusted to Bose any particular duty other than those that are set forth in Sub-clauses (i) and (ii) of the clause 3 of Ex. MA. Clause 4—Stipulation—Ex. MA—is very important, reading as, "you will guide and control your organisation so as to produce a premium collection of at least Rs. 50,000 (Fifty thousand) only in the 1st year and not less than the same amount in subsequent years on fire, marine and motor and miscellaneous business acceptable to the company". To guide and control an organisation here "control" does not mean appointment, dismissal or any other disciplinary action, but means, to guide the agents under his charge and co-ordinate the work of agents under his charge so that the objects for which he is to guide and control the agents under his charge may be achieved, viz., that the

agents should collect working under his guidance and charge a premium collection of at least Rs. 50,000 only in the first year and not less than the same amount in subsequent years on fire, marine, motor and miscellaneous business acceptable to the company. So the nature of duties under clause 3(i) (ii) and Stipulation clause 4 of Ex. MA, together with the evidence on record, make a Development Officer like Bose, the petitioner, doing duties mainly of supervisory nature. In guiding, training and controlling the agency force under his charge for achieving the object as in Stipulation clause 4 of Ex. MA, Bose the Development Officer, is required mainly to supervise the work of agents under his charge. In the objection petition filed on 16th July, 1971, in reply to the original application under Sec. 33A of the petitioner Bose, the company asserts in paragraph 11 of such objection petition that Bose did not perform any of the functions in the definition of workman in the Industrial Disputes Act, viz., clerical, manual, supervisory or technical and as such he was not a workman. But it is nowhere stated either in the original objection petition or in the objection petition filed in reply to the amendment of the original petition under Sec. 33A of the Industrial Disputes Act that either by the nature of duties attached to the office of Bose, the Development Officer or by reason of the powers vested in him the functions of the Development Officer Bose were mainly of a managerial nature. In both the objection petitions the company simply stated that Bose was not a workman. But it was not stated anywhere in both the objection petitions by the company as to what the status of Bose was, having a very catchy designation "Development Officer". Now, I find that Bose, the petitioner, has been employed mainly in a supervisory capacity to guide and to coordinate the working of the agency organisation under his charge with the main object of ensuring that the agents would collect working under his guidance and charge insurance business to produce a premium collection of at least Rs. 50,000 in the first year and of the same amount in subsequent years on fire, marine, motor and miscellaneous business of insurance acceptable by the company.

10. Let us now analyse the definition of workman under Section 2(s) of the Industrial Disputes Act which reads as follows:

"Workman" means any person (including an apprentice) employs in any industry to do any skilled or un-skilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) ***
- (ii) ***
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

On 1st April, 1970, the total remuneration of Bose was Rs. 350 basic wages Rs. 260 and fixed conveyance allowance Rs. 90. He is, as I find, a supervisor who does not draw wages exceeding Rs. 500. A person, being employed in a supervisory capacity, but not drawing wages exceeding Rs. 500 per mensem, may exercise either by nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature. Thus Supervisors may

in view of the definition of workman, be classed into three classes: supervisor class I who being employed in supervisory capacity draws wages exceeding Rs. 500 per mensem. He is not a workman in view of first part of clause (iv) of Section 2(s) of the Industrial Disputes Act. Supervisor class II is one who being employed in supervisory capacity draws wages not exceeding Rs. 500 per mensem and does not also come within the clause "or exercises, either by nature of duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature" [Clause iv Section 2(a)]. Supervisor Class III, is one, who being employed in a supervisory capacity, drawing wages not exceeding Rs. 500 per month. Exercises either by nature of duties attached to the office or by reason of the powers vested in him functions mainly of a managerial nature [Clause iv Section 2(s), of the Industrial Disputes Act]. Supervisor class I is not a workman within Section 2(s) as he comes within first clause of sub-clause (iv). Supervisor class II is a workman within Section 2(s) as he does not at all come within the exception of clause (iv). Supervisor class III is not a workman for he comes within clause (iv) "or exercises either by nature of duty attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature". The reason why a supervisor class III drawing wages not exceeding Rs. 500 per mensem but falling within the clause "or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature", is not a workman within Section 2(s) of the Act is not far to seek. The employer of an industrial unit, generically called the management, is accountable for the conduct of its supervisor of class III, and of all others, placed in the hierarchy of mainly managerial functions in answering any charge of unfair labour practices, if brought against the management by any workman, even though the act and conduct of the supervisors of class III or of anyone placed in the hierarchy of mainly managerial functions had not been specifically authorised or ratified by the management [International Association of Machinist, Tool and Die Makers Lodge No. 35 vs. N.L.R.B.-311 US 72, 81 Supreme Court 83(1940); see Smith's Labour Law 1950 Edition page 153]. The Supervisor class I, by reason of its definition in clause (iv) of Sec. 2(s) is not a workman. Supervisor class II in relation to labourers i.e. the other workman, as defined in clause (iv) of Section 2(s) of the Industrial Disputes Act is not one of the managerial representatives of the management's hierarchy of managers, i.e. the employer vis-a-vis the workmen. So, the supervisor class II gets the benefit of protection against the management's discreditation, unfair labour practices as other workmen get. But class III supervisors' nature of duty performed as attached to his office or the powers vested in him and exercised by him, would make his functions mainly of a managerial nature. The duties performed, as attached to his office, and the powers vested in him in performing his duties are to be specified and vested in supervisor class III by the employer i.e. top echelon of the management so that his functions in discharging his duties and in exercising of his powers vested in him in discharging his duties would in either case be mainly of a managerial nature. The expression "mainly of a managerial nature" in clause (iv) of Section 2(s) of Industrial Disputes Act has got a technical connotation in Industrial jurisprudence. In doing his duties attached to his office, and/or in exercising powers vested in him, when the supervisor class III functions mainly of a managerial nature, he may, in purported discharge of his duties, and purported exercise of his powers over-step the sphere of his duties, and limit of his powers. He may, in discharge his duties attached to his office, and/or in exercise of his powers vested in him, while functioning mainly of a managerial nature, may not over-step the sphere of his duties and limit of his powers. In either case, his act or conduct may amount still to unfair labour practice or victimisation vis-a-vis the labour as known in Industrial jurisprudence. In

either of the situations, if the management is charged for unfair labour practices, indulged in by a supervisor class III, the management must be answerable to the workman affected. The blame would lie not on the individual i.e. supervisor class III but definitely on the management since the duties performed and the powers exercised by supervisor class III in either of the situations would be mainly of managerial nature. Whoever does any duties and/or exercises any powers and functions thereby mainly of a managerial nature, be he a supervisor or a plant overman or a works Deputy Manager or a Plant Superintendent, shall bind, by his act done or conduct displayed in the discharge or purported discharge of his duties, and/or in exercise or purported exercise of his powers, the employer i.e. the management, since by functioning mainly of a managerial nature in discharge of his duties and in exercise of his powers the person concerned makes the management primarily liable. The functions of a supervisor class III in discharge of the duties attached to his office and in exercise of the powers vested in him in performing the duties attached to his office must be "mainly of a managerial nature" in the sense ("the emphasis being on the word 'mainly' not wholly) that his action, whether specifically authorised or not, whether ratified or not, by the management, would bind the management in case such action bring the management within the mischief of any labour Relation Laws such as unfair labour practice, victimisation and some such other similar violations and makes the management directly answerable. The duties and powers of mainly of a managerial nature" of a supervisor class III within clause (iv) of Section 2(s) of the Industrial Disputes Act go hand in hand while he is functioning in discharge or purported discharge of his duties attached to his office and in exercise or purported exercise of the powers vested in him, being mainly of managerial nature in the sense that his act and conduct, in discharge or purported discharge of his duties attached to his office and in exercise or purported exercise of the powers vested in him by the management, even though such act and conduct might or might not be strictly within the sphere of his duties attached to his office or within the powers vested in him by the management, would still be within the functions "mainly of managerial nature" binding the management thereby. The duties and powers of supervisor class III, i.e. the functions "mainly of managerial nature" have thus their special significance in the jurisprudence of Industrial law within Section 2(s)(iv) of the Industrial Disputes Act. The expression "mainly of managerial nature" in clause (iv) of Section 2(s) of the Industrial Disputes Act, as I have already explained, carries with it the sense of vicarious responsibility in the management for an act or conduct of the supervisor class III and is to be so understood in the jurisprudence of Indian Industrial disputes in the light of the principle enunciated by the American Jurists in Labour Relation Laws (311 US page 72 Supra). It is not only the nature of duties, attached to his office nor only the powers vested in the supervisor class III that would make him functioning as a supervisor class III mainly of managerial nature unless by his act and conduct the management could vicariously be made responsible particularly, when such act and conduct affect the management workman relations regulated either by contract or by Labour Relation Laws including award, settlement, decrees of Court and the like. Keeping in view the legal significance of the connotation of the expression "mainly of managerial nature" in clause (iv) of Section 2(s) of the Industrial Disputes Act let me again proceed to review the evidence in the case at hand.

11. The evidence clearly establishes (both oral and documentary), that the applicant Bose, the Development Officer, is employed mainly in a supervisory capacity. As his emolument was Rs. 350/- before it was scaled down, so he is a supervisor *prima facie* of class II and as such a "workman". Now, the question is whether he is a supervisor of class III. I have already nomenclatured supervisors in this decision in three categories

and fully described each of them. Has the Development Officer, Bose, been either by performing the nature of the duties attached to his office and/or by reason of exercising powers vested in him "functioning mainly of a managerial nature"? If he is so functioning as supervisor class III, he is not a workman, even though he draws wages below Rs. 500/-. The letter of appointment Ex. MA speaks of the nature of his duties. The duties carry with them certain powers. I have already observed what is the meaning of the words "to recruit train and control the agency force in your jurisdiction" in clause 3(i) of Ex. MA as well as the words "service business in your jurisdiction" in clause 3(ii), in the light of the evidence adduced before me by the parties. By recruitment it is clear from the evidence that the petitioner Bose only introduces persons as prospective agents for selection by the Development Manager. Such prospective agents may be recruited or may not be recruited as agents by the appointing authority. This is Bose's duty relating to recruitment. "Control", as I have already observed, does not mean appointment, transfer and disciplinary action against the agents appointed by the Divisional Manager or the Secretary of the company whoever he may be. In relation to the expression "control the agency force in your jurisdiction", in clause 3(ii) of Ex. MA and "control your organisation" in clause 4 of Ex. MA, in the light of evidence as I have discussed, gives only this power to Bose, the petitioner, that he would coordinate the work at all agents under his charge and within his area i.e. the city of Calcutta and its suburbs. "Guide" in clause 4, as I have already observed in the light of evidence adduced by the parties, means to give advice and assistance whenever necessary to the agents under his charge and even to prospective clients. By training as in clause 3(i), Sri Bose is to give certain instructions to the agents appointed by the company, as to how they should secure stipulated volume of business for the company working under Bose's guidance. The sum total of Bose's training, guidance and control of the agency force within his jurisdiction has the only object which is clearly stated in clause 4-Stipulation and in clause 6-Terms of Ex. MA. If Bose fails to train up guide and coordinate the work of the agents working under him for securing business of the company that would not produce premium income at the stipulated rate as in clause 4 of Ex. MA, the direct mischief would come to him and indirect to the company. He would suffer downward revision of his remuneration and even termination of service but he would have no power to take any action against any of the agents should they conspired with oblique motive to disregard Bose's guidance, advice and directions and brought disastrous consequences to Bose's service career. He has no powers to take any disciplinary action against any of the defaulting agents. He has no power to appoint or dismiss any of the agents. His guidance, advice, directions and action in coordinating the works of agents working under his charge are primarily intended for the protection of his own interest evident from clause 4 and 6 of Ex. MA. He has no policy-decision power. His sphere of activity is confined mainly to train, guide, advise agents and coordinate their work within his charge. Therefore, his main duty is to supervise the work of all the agents under his charge and in doing so he is required to see that following his guidance, directions, training and assistance rendered to all or any one of them in a particular case, they have been securing premium income as stipulated in between Bose and the company in terms of clause 4 of Ex. MA in order that the mischief of clause 6 of Ex. MA might not jeopardise Bose's security of job and wages under the company. All his training, guidance, advice, assistance and coordination work would go to the wind unless he exercises day to day supervision for achieving his own object as in clause 4-Stipulation. Thus the main sphere of activity of Bose, the Development Officer is of supervisory nature while training advice,

guidance are incidental to main work. He might have some technical knowledge of insurance business. He might at times fill up this for or that form thereby doing a little of the clerical work, but that does not matter at all. What is fundamental in such a situation is, whether the main function of Bose is of supervisory nature, and whether the duties attached to his office and the powers vested in him while functioning as the Development Officer, make him one, who exercises functions "mainly of a managerial nature" in the sense that his act and conduct in discharging his duties as a Development Officer and exercising his powers as such would in any way bind the management of the company so as to be that he exercises functions "mainly of a managerial nature". As I have analysed Ex. MA and the evidence adduced by the parties, I cannot find any material to hold that while functioning mainly in his supervisory capacity as a Development officer of the company, Bose exercises "functions mainly of a managerial nature" in the sense that by any of his act, and by exercise of any of his powers in relation to the agents of company under his charge, he could in any manner bind the company so that his act and conduct could be construed as falling within the expression "mainly functions of a managerial nature" as in clause (iv) of Section 2(s) of the Industrial Disputes Act, which I have already explained.

12. In Industrial relations there are two kinds of management officials, (i) line officials and (ii) staff officials former responsible for production and the latter mainly in an advisory capacity (Reynolds, Labour Economics and Labour Relations 4th Edn. page 153). Staff officials are charged with developing and recommending policies on such matters as employee recruitment and selection, training employee rating, promotion, down grading, lay off, discipline, discharge, wage policy, wage administration, hours of work, workshop, employees benefits (see 153-154 ibid supra). The Development officer i.e. applicant Bose's duties and powers as in clauses 3 and 4 of Ext. MA in the light of the evidence adduced by the parties do not come within the sphere of staff line officials' duties and powers. People of the production line of command are responsible for issuing orders about what is to be done, how it is to be done and who is to do. They authorise changes in production, methods and personnel. They initiate lay off, new hiring, discharges, promotion, transfer of workers (page 154 ibid supra). The Development officer, the applicant Bose's nature of duties and powers as in clauses 3 and 4 of Ex. MA do not again come within the sphere of the people in the production line of command. Thus within the two lines of management officials, the duties and powers of the Development officer like the applicant Bose do not make him either a staff line or a production line management officials.

13. Now, for the management its learned Advocate placed two decisions, (1) Burmah Shell Oil Storage & Distribution Company of India Ltd. and The Burmah Shell Management Staff Association and Others, 1970 II LLJ 590, Sc., and the other Standard Vacuum Oil Company and Commissioner of Labour and another, 1959 II LLJ p.771 (per Balakrishna Ayyar, J. Madras High Court). Let me take the second case first. There the expression "person employed in the position of management" under Section 4(1)(a) of the Madras Shops & Establishment Act came up for consideration before his Lordship. The expression in Section 4(1)(a) of the Madras Shops & Establishment Act is "in the position of management" but the expression in clause (iv) of Section 2(s) of the Industrial Disputes Act is "either by nature of the duties attached to the office or by reason of the powers vested in him functions mainly of a managerial nature". I have already explained the legal significance behind the expression "mainly of a managerial nature" in the sense as has been explained by a very high authority in the jurisprudence of Labour Relations Law in the case of International Association of Machinist, Tool and Die Makers Lodge No. 35 vs. N.L.R.B.-311 US 72, 61 Supreme Court 83(1940). I re-

spectfully accept that explanation for the purpose of my decision. His Lordship Balakrishna Ayyar, J. is of the view that if an individual has officers subordinate to him whose work is required to overlook, if he has to take decisions and also responsibility for ensuring that the matters entrusted to his charge are efficiently conducted and as ascertainable area or section of work is assigned to him, one would ordinarily be justified in saying that he is in a position of management. Now, judging from the standard laid down by his Lordship, Bose the Development Officer has no officer subordinate to him. The agents are not officers subordinate to the Development officer. The agents of certain area are placed in his charge i.e. certain area supervised by him so that he can train, guide and coordinate their work, and in doing so supervise their work. He cannot take any decision. His responsibility is to supervise the work of the agents placed under his charge i.e. within his area in order to ensure for his benefit that the agents should produce minimum premium income as in clause 4 of Ex. MA. But if, as I have already observed, the agents disregard his guidance, advice, direction and fail to secure business that could not produce the stipulated premium income in clause 4 of Ex. MA he was powerless and the failure of the agents would be a boomerang to Bose, the Development officer. In Section 4(1)(a) of the Madras Shops & Establishment Act, the expression is "person employed in the position of management", and the position in management according to his Lordship Balakrishna Ayyar involves overlooking subordinate officers, taking decisions and responsibility in the matters entrusted to his charge. In Standard Vacuum's case, the question was whether one Prem Sagar, holding a gazetted appointment in the Government of India as Assistant Engineer, who entered the services of Standard Vacuum Company, Madras as temporary Road Engineer on a salary of Rs. 350/-, later on promoted as Operating Engineer with a salary of Rs. 450/-, later on designated as Operation Assistant, drawing a salary of Rs. 1000/- per month, could complain against termination of his service before the Commissioner of Workmen Compensation Act under Sec. 41 of Madras Shops and Establishment Act, 1947. Standard Vacuum Company, the petitioner in the appeal against the order of the Commissioner before the High Court contended that Prem Sagar held a position of management and was therefore not entitled to the protection conferred by the Act. In that context the expression in Section 4(1)(a), "person employed in the position of management" was explained. The present context before me is in regard to the relation between the management and its workmen governed by the Industrial Disputes Act, 1947. Supervisor class III or as a matter of that class II, are *prima facie* workmen both drawing wages below Rs. 500. But in case of class III, only when such Supervisor comes within the expression "or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature", in clause iv of Sec. 2(s) he ceases to be a workman under Section 2(s). In clause (iv) of Section 2(s) the expression "functions mainly of a managerial nature" has in my view a significant legal connotation in the sense I have already explained. To reiterate, I may say that Bose drawing wages below Rs. 500 who is *prima facie* a workman would cease to be so if being employed in a supervisory capacity as he is and drawing wages below Rs. 500/- exercises either by nature of the duties attached to his office or by reason of the powers vested in him functions mainly of a managerial nature in the sense that in performing duties attached to his office and/or in exercising powers vested in him, his act and conduct in the purported discharge of the duties attached to his office and/or in purported exercise of the powers vested in him, would bind the management, whether authorised or unauthorised, whether ratified or unratified by the management if and when his act and conduct would affect the company's agents placed under his charge while working under his guidance and direction. In that sense, I understand the expression "mainly of managerial nature" in clause (iv) of Section "(s) of

the Industrial Disputes Act. From this angle, the expression "in the position of a management" in Section 4(1)(a) of the Madras Shops & Establishment Act" had not been approached, with respect by his Lordship Mr. Justice Balakrishna Ayyar. So, that decision is no guide for me to interpret the expression "functions mainly of a managerial nature" in clause (iv) of Section 2(s) of the Industrial Disputes Act.

14. The next decision of the Supreme Court supports my conclusion. The work of Bose of giving training, advice and guidance to the agency force and coordinating agent's work with his jurisdiction being mainly of supervisory nature, cannot be held to be that of an employee doing technical work. Bose having passed Insurance Inspector's examination which might have earned for him a technical qualification, may also have acquired experience in insurance field, working previously in two other general insurance companies before joining the present company. He may have thus acquired technical qualifications and may be on that account employed mainly in the supervisory capacity. So, Bose should be held to have been doing mainly supervisory work. I find from the oral and documentary evidence discussed above, that Bose, the Development officer is not principally employed for the purpose of promoting sales of insurance policies of the company. He does not directly contact and secure business from the prospective clients for the insurance company. The agents are to secure business contacting clients I believe. He trains, guides and coordinates the work of agents under his jurisdiction by local inspection and personal contact with the agents, sometimes through agents with the prospective clients to ensure that the agents working under his charge would produce from time to time premium income as he has stipulated with the company in terms of Clause 4 of Ex. MA. The Supreme Court has laid down that in determining the status of a workman what is to be looked into and considered is the substantial work, done by a person for which he is employed to do. Their Lordships of the Supreme Court has emphasised and has observed at page 598 of the Report, "thus in the present case also in determining which of the employees in various categories are covered by the definition of workman, we are to see what is the main and substantial work for which they are employed to do. If it is supervisory work, it would be held that they were employed to do supervisory work even though they might also be doing some technical, clerical or managerial work. If, on the other hand, the supervisory work be incidental to the main or substantial work of another type, viz., clerical manual or technical, the employment would not be in the supervisory capacity. It is in the light of this principle that we shall now proceed to examine the correctness of the decision of the tribunal in respect of various categories of workmen involved in this reference". Then their Lordships considered the case, of a Transport Engineer. In regard to the Transport Engineer's case, though he had been doing a combination of supervisory duties he was drawing a salary in excess of Rs. 500 and ceased to be a workman under exception clause (iv) of Section 2(s) of the ID. Act. In case of Fueling Superintendent, their Lordships held that he was not mainly or substantially to do supervisory work even though his salary exceeded Rs. 500 per mensem. The work was mainly manual. In regard to Chemist who carried out all tests personally with the help of a few assistants who did more routine work in order to assist the chemist, his main work was technical but his incidental work was the supervision of the work of his assistants. Chemist was held employed in technical work and not in supervisory capacity and was held to be a workman. The Sales Engineering representative was found by their Lordships of the Supreme Court that although he was required to have technical knowledge for his work, that did not make his work technical. The work of advising and removing complaints so as to promote sales remained outside the scope of technical work. So, he was not to be a workman. Blending Supervisors, supervisory

work was held to be a minor part of his duties. The major part of his duties was of himself operating various parts of the machinery and ensuring that oil be blended properly. The Blending Supervisors do little supervisory work—Incidental to their main work which was manual in nature and was, therefore, employed in doing manual work and was held by their Lordships to be a workman. The decision of their Lordships of the Supreme Court clearly indicates that a person doing mainly either managerial or supervisory work, but drawing wages above Rs. 500 is not a workman, and that a person doing supervisory work mainly of a managerial nature but drawing wages below Rs. 500 is not a workman, and that a person employed mainly in a supervisory capacity and drawing wages below Rs. 500, but does not do any duty or exercise any powers mainly of managerial nature is a "workman". So, my classification of supervisors in three classes, as I have already indicated, finds a clear sanction from the decision of their Lordships of the Supreme Court. The learned Advocate for the management submitted before me that there was an award of a Madhya Pradesh Tribunal wherein a Development officer of the General Insurance Company was held not to be a workman. When I have before me the authoritative decision of the Supreme Court and a decision of the American Supreme Court of high persuasive value, I, as advised, cannot and do not consider the said award in the context of the case now before me.

15. Upon a review of the evidence both oral and documentary, I find that Bose the Development Officer has been employed mainly in a supervisory capacity drawing wages below Rs. 500. He being employed in a supervisory capacity and drawing wages not exceeding Rs. 500 per mensem does not exercise either by the nature of the duties attached to his office and/or by reason of the powers vested in him, functions mainly of a managerial nature so as to come within exception (iv) of Section 2(s) of the Industrial Disputes Act. The evidence both oral and documentary which I have reviewed leads me to conclude that Bose's main nature of duty is of supervisory character and not of such character as would come within the expression "functions mainly of a managerial nature" within clause (iv) of Section 2(s) of the Industrial Disputes Act. So, my considered view is that he is a workman within Section 2(s) of the Industrial Disputes Act and the exception clause (iv) does not apply to him.

16. Section 33 of the Industrial Disputes Act is to be read with Section 33A of the Industrial Disputes Act. Section 33A reads as follows:

"33A. Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a (Labour Court, Tribunal or National Tribunal), any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner to such (Labour Court, Tribunal or National Tribunal) and on receipt of such complaint that (Labour Court, Tribunal or National Tribunal), shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly".

There is the expression "any employee". There is no expression "workman" in the entire section. Section 33(1) clause (a) uses the words "the workman concerned in such dispute". In sub-section (2) of Section 33 there is the expression "to a workman concerned in such dispute" and also "workman" in clauses (a), (b) and proviso to Sub-section (2). The expression "employee" has not been defined in the Industrial Disputes Act but the expression "employer" has been given a limited meaning under Sec. 2(g)(i) and (ii). Section 33A enjoins that any employee can apply complaining contravention of the provisions of Sec. 33 of

the Act. In Section 33 of the Act we have not the expression "employee". The expression "workman" has been defined in Sec. 2(s) of the Industrial Disputes Act. 'Employee' according to all standard dictionaries, according to law as the Courts have stated it and according to the understanding of almost every one means someone who works for another for hire. "Workman" under Section 2(s) employed in the industry to do any skilled or unskilled, manual, supervisory, technical or clerical work must be for hire or reward. An employee is a workman only when he does any skilled, unskilled, manual, clerical, technical or supervisory work for hire or reward and does not come within any of the exceptions in clause (i) to (iv) of Section 2(s) of the Act. An employee is not a workman if he does not do mainly any or those works mentioned above or combination of any of those works in minor part with any of those works in major part even for hire or reward such as minor part clerical, major supervisory, or minor technical, major clerical so on and so for i.e. supervisory or technical. So, an employee under Section 33A of the Industrial Disputes Act in order to be a workman under Sec. 33 read with Sec. 33A of the Act must be employed in any industry to do mainly skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward and does not come within any of the exceptions in clauses (i) to (iv) of Section 2(s) of the Industrial Disputes Act. So, an 'employee' in Section 33A would be synonymous to a 'workman' under Section 2(s) read with Section 33 of the Industrial Disputes Act if he is employed in any industry doing mainly any of the work or combination thereof as mentioned above, and does not at the same time come within any of the four exceptions mentioned above. Thus, I hold that employed mainly in supervisory capacity the Development Officer Sri Bose, drawing wages below Rs. 500 per month, is a "workman" within Section 2(s), and an employee under the company and he does not come within the exception in clause (iv) of Section 2(s) of the Act, and as such, he is competent to present the application under Section 33A before this Tribunal where Reference No. 31 of 1971 is pending adjudication fixed for final hearing on 14th March, 1972. Accordingly, I hold that I can entertain Bose's application under Section 33A of the Industrial Disputes Act.

17. Thus, I render by this decision my interim award only on the point that the applicant, Development Officer Sri Bose, is an employee workman in the company opposite party and is, therefore, entitled to present the application under Section 33A of the Industrial Disputes Act before this Tribunal where Reference No. 31 of 1971 is pending adjudication, being fixed for final hearing on 14th March, 1972. The other matters on merits arising out of the application under Section 33A of the Industrial Disputes Act regarding the alleged change of condition of service of the applicant in contravention of Sec. 33(1)(a) of the Industrial Disputes Act by the management shall be taken up for hearing on a date to be notified hereafter for adjudication following the publication by the Central Government of this interim award under Section 17 of the Industrial Disputes Act, rendered under the provisions of Section 33A read with Section 2(b) of the said Act.

(Sd.) S. N. BAGCHI, Presiding Officer.

Dated, March 4th 1972.

[No. F. L-17014/2/72-LR. I.]

New Delhi, the 25th March, 1972

S.O. 951.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the South Indian Insurance Company Limited, Bombay and their workmen, which was received by the Central Government on the 22nd March, 1972.

BEFORE SHRI N. L. ABHYANKAR, NATIONAL INDUSTRIAL TRIBUNAL, BOMBAY

REF. (NT) NO. 3 OF 1970

BETWEEN:

The South India Insurance Co. Ltd., Bombay.

AND

The workmen employed under them.

In the matter of classification, revision of scales of pay, fitment, D.A., increments, special increments and incentives, other allowances, special allowances, overtime payment, leave, amenities and subsidies, free medical aid, provident fund, gratuity, direct recruitment, promotion policy, maternity benefits etc.

APPEARANCES:

Shri Rajadbhyaksha, Advocate—for the Union of India and the custodian.

Shri N. V. Phadke with Shri Jinwala for the employers the South India Insurance Co. Ltd., Bombay.

Shri K. T. Sule, Advocate—for the workmen.

AWARD

This is a reference under Section 7B read with Section 10(LA) of the Industrial Disputes Act, XIV of 1947, for adjudication of a dispute between the South India Insurance Co. Ltd., Bombay and the workmen employed under it which arises over the demands made by the workmen for classification, revision of scales of pay, fitment, dearness allowance, increments, allowances, leave benefits, medical aid, provident fund, gratuity, maternity benefits etc.

2. The parties have settled the dispute and filed the terms of settlement. The parties pray for an award in terms of the said settlement. I find the settlement is fair and make an award in terms of the said settlement annexed hereto and dispose of this reference.

3. Shri K. T. Sule on behalf of the workman requested that the Association of the employees had incurred considerable expense in energetically prosecuting this reference, which should be reimbursed. As the whole dispute has been settled I am not inclined to award anything by way of costs but recommend that Government which is a party to these proceedings should consider the request for reimbursement of the expenditure incurred by the employees Association sympathetically.

Sd/- N. L. ABHYANKAR,
National Industrial Tribunal.

Bombay, 15 March 1972.

Memorandum of Settlement

NAMES OF PARTIES:

Representing Employer—Shri B. K. Shah, Custodian The South India Insurance Company Limited, Bombay.

Representing Workmen—Shri N. B. Karmaran, General Secretary, The South India Insurance Company Limited Employees' Association Bombay.

Custodian—Shri B. K. Shah, Custodian, Bombay.

Representing Union of India—Shri M. K. Venkateshan, Joint Secretary, Ministry of Finance, Government of India, New Delhi.

Short Recital of the Case

WHEREAS on or about the 31st May, 1969, The South India Insurance Company Limited Employees'

Association, Bombay, presented, on behalf of the employees of the South India Insurance Company Limited, a Charter of Demands to the Employer, The South India Insurance Company Limited, Bombay, (hereinafter referred to as the Company).

And whereas, on failure of the negotiations, the Government of India, in exercise of the powers conferred by the Industrial Disputes Act, 1947 (4 of 1947), by its orders dated the 2nd May, 1970 and 30th June 1970; referred the dispute on the said Charter of Demands for adjudication by a National Industrial Tribunal presided over by Shri N. L. Abhyankar, Bombay.

And Whereas by reason of vesting of the Management of the Company in the Government of India under an Ordinance promulgated by the President of India on the 13th May, 1971, [which Ordinance was subsequently replaced by the General Insurance (Emergency Provisions) Act 1971], for taking over the management of General Insurance business pending nationalisation of such business, the Honourable Tribunal by its order dated the 23rd July 1971, impleaded the Union of India as also the Custodian appointed for the Company as parties to the Reference, [N.T.(3) of 1970];

And whereas pursuant to discussions held between the parties to the dispute a settlement has now been reached (hereinafter referred to as "this Settlement");

And whereas the parties hereto desire that the said Settlement be recorded by the Honourable Tribunal and an award be made in terms thereof;

IT IS HEREBY AGREED BY AND BETWEEN THE

PARTIES HERETO AS FOLLOWS:

Terms of Settlement

1. (i) The existing terms and conditions of service applicable to employees serving at various places as described hereunder will continue to be effective unaltered subject to what is stated below:—

- (a) *Employees at Head Office (Bombay), Calcutta, Madras, Delhi, Ahmedabad, Indore, Ambala, Dehra Dun and Kanpur.*

With regard to the employees serving at the places mentioned above, the existing provisions of the two identical Memoranda of Settlement dated the 19th December, 1968, arrived at by The All India Insurance Employees' Association and The All India Federation of The New India Assurance Company Limited Employees' Unions with the South India Insurance Company Limited, Bombay, (hereinafter referred to as the 1968 Settlement and marked Appendix 'A' hereto), shall continue to be effective unaltered, except as specifically herein provided in this Settlement.

- (b) *Employees at Places other than those included in Item 1(i) (a) above:*

With regard to the employees serving at places other than those stated in Item 1(i) (a) above they will continue to be governed by the terms and conditions of service applicable to such employees as set out in Appendix 'B' hereto, except as specifically herein provided in this Settlement.

With regard to the employees serving at places mentioned in this sub-paragraph who satisfy the conditions of eligibility as set out in Item 2(viii) hereinafter, their revised basic salaries and Dearness Allowance consequent upon the incremental adjustments due to them under item 2 of this Settlement, are set out in Appendix 'C' hereto.

2. (i) The existing salary scales, increments, efficiency bars, span of scales etc. will remain unaltered. There will be no changes in the existing grades. The Minima and Maxima of the grades shall also remain unaltered.

(ii) The employees will be eligible to receive incremental adjustments in their existing grades on the following basis and conditions of eligibility hereinafter set out:—

Grade	Period of service in the grade as on 30th June 1969 (years)	No. of increment
Sub-Staff	Upto 10 years Above 10 years	5 6
Drivers	Upto 10 years Above 10 years	4 5
Record Clerks	Upto 10 years Above 10 years	4 5
'B'	Upto 3 years Above 3 years but upto 10 years Above 10 years	2 3 4
'A'	Upto 10 years Above 10 years	2 3
'SA'	Upto 5 years Above 5 years but upto 10 years Above 10 years	1 2 3

(iii) In the case of employees whose revised Basic Salary exceeds the ceiling of their respective grades by application of the incremental adjustments as per 2 (ii) above, such excess will be treated as Personal Pay. This Personal Pay shall attract all benefits such as Dearness Allowance, Provident Fund, Bonus, Gratuity, etc., as if it were part of basic salary.

(iv) While granting incremental adjustments as per 2(ii) above, marginal adjustments would be granted to those employees who have received promotions to higher grades, i.e. to Record Clerks, 'B', 'A' and 'S.A.' Grades, on or before 30th June 1969, so that the increase consequent upon the incremental adjustments as per 2(ii) above shall not be less than what they would have otherwise received had they not been promoted. This increase will first be adjusted towards Basic Salary to the extent possible in their promoted grades existing as on 30th June, 1969. The balance left, if any, after this adjustment shall be treated as Personal Pay and this Personal Pay shall attract all benefits such as Dearness Allowance, Provident Fund, Bonus, Gratuity, etc., as if it were a part of Basic Salary.

(v) Normal increments in Basic Salary received for the years 1970, 1971 and 1972 will not be set off against incremental adjustments received under items 2 (ii) and 2(iii) above. Any excess beyond the ceiling of the existing grades will be treated as Personal Pay and this Personal Pay shall attract all benefits such as Dearness Allowance, Provident Fund, Bonus, Gratuity, etc., as if it were a part of Basic Salary.

(vi) Should an employee cross the Efficiency Bar applicable to his grade by reason of the incremental adjustments as per item 2 above such Efficiency Bar shall be considered to be notionally increased to his adjusted basic salary as per item 2 above.

(vii) Financial benefits accruing out of this Settlement as per Items 2 (ii), 2 (iii) and 2 (iv) above will be payable with retrospective effect from the 1st July, 1969, to all eligible employees provided however that

no such retrospective effect will be given in the matter of Overtime, Halting Allowance and Transfer Allowance.

(viii) *Eligibility for item 2(ii)*

All employees who were confirmed in the Company's service as on 30th June, 1969, or were on probation in the Company's service as on 30th June 1969, and subsequently confirmed will be eligible to receive the increments as per item 2(ii) above.

3. *New Recruits*.—Those who joined the Company's regular service on or after 1st July 1969 will not be eligible for incremental adjustments etc., on the basis of item 2 above, but will be eligible to receive only an *ad-hoc Special Allowance*, with effect from their date of confirmation, on the following basis, provided they are in the service of the Company on the date of signing this Settlement:—

Grade	Special Allowance per month
Sub-Staff	20
Drivers	
Record Clerks } 'B'	35
'A' } 'SA'	

The Special Allowance would be taken into account for the purpose of Provident Fund and Gratuity only and will not be so taken into account for any other purpose whatsoever.

4. Illustrative cases of the basis set out above are given in Appendix 'D' hereto for the purpose of clarification.

5. *Extra Special Allowance*.—The following *ad-hoc Special Allowance* will be granted, with effect from 1st July 1971, only to those employees who were in the Company's service either as confirmed employees or as probationers as on 30th June 1969, and who are in Company's service on the date of signing this Settlement:—

Basic Salary P.M. as at 1-7-1971	Extra Special Allowance P.M.	Rs..
Upto Rs. 200	20	
Rs. 201 to 350	25	
Rs. 351 to 500	30	
Rs. 501 and above	35	

This Extra Special Allowance will be treated as Personal Pay and would be taken into account for the purpose of Provident Fund and Gratuity only and will not be so taken into account for any other purpose whatsoever.

6. *Leave and Working Hours*.—(i) The Leave Rules of the Company will remain unaltered except to the extent of the amendments hereinbelow made:—

(a) *Casual Leave*:

In respect of Casual Leave the present rules will continue except that with effect from the 1st January, 1972, employees will be eligible to

Ten Days Casual Leave per Calendar Year at all places in India, including Bombay.

(b) *Sick Leave*:

In respect of Sick Leave, present rules will continue. Accumulation of Sick Leave will be 240 days as at present with a further provision that the aggregate Sick Leave that could be availed of during the entire period of service after 1-1-1972 shall not exceed 12 months. It is understood that Sick Leave availed of prior to 1-1-1972 shall not be taken into account for the purpose of calculating the above ceiling of 12 months.

(ii) *Working Hours*:

There will be no change in the existing working hours for any category of Staff anywhere in India, except Bombay City. In Bombay City Working Hours wherever increased by 15 minutes per week in 1967 as per item 28 of the 1966 Settlement Appendix 'A), will stand reduced by 15 minutes per week with effect from 1st March 1972. It is understood that at all offices in India, wherever situated including Bombay the existing practice of Sub-Staff members attending office 15 minutes earlier and staying 15 minutes after office hours will continue to be effective as before.

7. *Duration of Settlement*.—This Settlement shall take effect from 1st July 1969, except in those cases in which other dates are specifically hereinabove provided and shall remain in operation for a period of one year from the date on which the Award of the National Industrial Tribunal which may be made in terms of this Settlement become enforceable, subject always to the provisions of the Industrial Disputes Act, 1947.

8. *Applicability*.—This Settlement will be applicable to Administrative Staff of the Company who were in the service of the Company as on 30th June 1969, or thereafter, as provided above, and who were exclusively performing the duties assigned to the Administrative Staff of the Company. It is not applicable to temporary or part-time employees.

9. *Other Terms and Conditions*.—(i) All the demands which are the subject matter of the dispute in Reference No. NT(3) of 1970 before the National Industrial Tribunal presided over by Shri N. L. Abhyankar, Bombay, shall be deemed to have been settled by this Settlement.

(ii) The parties shall make an application to the National Industrial Tribunal in Reference No. NT(3) of 1970 requesting it to make an Award in terms of this Settlement.

In witness hereof the parties have hereto set their hands at Bombay this Sixth day of March 1972.

Signature of Witnesses:

(Sd.)/- M R. RAYAKAR

Witness

Signature of Employer's Representative

(Sd.) B. K. SHAH,
Custodian

The South India Insurance
Co. Ltd.
Bombay

Signature of Employees' Representative

(Sd). DINSHAW S. VAKHARIA

Witness

(Sd). N. B. KARMARAN
General Secretary
The South India Insurance
Company Limited Employees
Association.

Signature of Custodian

(Sd). M. R. RAYAKAR

witness

(Sd.) B. K. SHAH
Custodian
The South India Insurance
Company Limited, Bombay.

Bombay, the 8th day of March
1972*For and behalf of on Union of India*

(Sd). V. D. GHELANI

Witness

(Sd). M. K. VENKATESHAN
Joint Secretary,
Ministry of Finance, New Delhi.

"APPENDIX A" (1966 SETTLEMENT)**MEMORANDUM OF SETTLEMENT DATED THE
19TH DECEMBER 1966**

1. Scope of Settlement:—The terms of this Settlement will be applicable to the Company's Administrative Staff at H.O. (Bombay), Calcutta, Madras, Delhi, Ahmedabad, Indore, Ambala, Dehra Dun and Kanpur.

i. Revised Salary Scales:**Existing Scales****Revised Scales****'B' Grade**

Rs. 85—7—120—8—160—10—200	Rs. 165—7—200—8—240—
EB—12 1/2—250—15—295—	10—280—EP—15—355
20—355	20—455
(24 years)	(24 years)

'A' Grade

Rs. 130—10—210—EB—15—360	Rs. 210—10—290—EB—15
20—420 (21 years)	410—20—470—25—520
	(21 years)

'Stenographer's Grade—Same as 'A' Grade**'SA'—Grade**

Rs. 250—20—350—EB—25—500	Rs. 330—20—430—ER—25
(11 years)	530—30—620 (12 years)

'Record Clerk's Grade'

Rs. 55—3—70—5—100—EB—5—	Rs. 135—5—185—EB—6—
120 (15 years)	227—8—251 (20 yrs)

'Driver's Grade'

Rs. 60—5—140 (16 years)	Rs. 125—5—160—65—220—
	7—241 (20 years)

'Sub-Staff' Grade

Rs. 35—2—55—3—70—5—110	Rs. 100—3—136—4—140—
(23 years)	5—190 (23 years)

i. (a) Increment : Existing practice to continue.

2. Recruitment.—Normally recruitment shall be confined to 'B' Grade and Sub-Staff Grade only. However, where the job requires more technical

knowledge, qualifications and/or experience, the Management may resort to direct recruitment.

Temporary appointments will be made subject to necessity and shall normally be upto a period of three months, and in exceptional cases, upto a period of 6 months.

Save as above, appointments shall be on probation for a period of six months during which time the Management will take a decision to confirm or otherwise the person appointed.

3. Promotion Policy.—The present practice to continue.

4. Special Increments.—(i) The present practice of giving two additional increments to Graduate Assistants to continue.

(ii) The present practice of giving one additional increment to Comptists from the date of appointment to continue.

(iii) Steno-typists in 'B' Grade will be given three additional increments on recruitment.

(iv) On passing the A.C.I.I. Examination employees in 'B' Grade will be promoted to 'A' Grade as hitherto. If already in 'A' Grade, one additional increment shall be given in that Grade.

(v) On passing the A.F.I.I. Examination employees in 'B' Grade will be given two additional increments in their grade, and those in 'A' Grade will be given one additional increment in that Grade.

(vi) On passing the F.C.I.I. Examination one additional increment in the Grade plus Rs. 250/- as a Cash Award shall be paid to employees in 'A' Grade and 'SA' Grade.

(vii) On passing the F.F.I.I. Examination one additional Grade increment shall be given to employees in 'A' Grade and 'B' Grade, and a Cash Award of Rs. 250/- shall be given to employees in the S.A. Grade.

5. Dearness Allowance.—Dearness Allowance shall be payable in accordance with Scale given in Appendix 'A'. This Scale includes the benefit of ten points anticipatory increase in the All Indian Consumer Price Index, and in the event of any recommended increase in this Index by any Dearness Allowance Commission or Committee, with a view to correcting the published index, no further consequent increase shall be given upto the first ten points or less.

The above D.A. Scale will be revised in accordance with the scale shown in Appendix 'A' when the All India Consumer Price Index goes below 161 or above 165.

In future the difference in D.A. due to the fluctuating index shall be adjusted once in three months only.

6. House Rent Allowance.—House Rent Allowance shall be paid on the following basis:—

Sub-Staff/Drivers

The present House Rent Allowance of Rs. 7/- per month to be increased to Rs. 13/- at Bombay, Calcutta, Madras and Delhi, and to Rs. 9/- at other places.

OTHERS			
Basic Salary			Bombay, Other Calcutta, Places
			Delhi and Madras
Upto Rs. 200	.	.	Rs. 17 Rs. 14
Next Rs. 201—400	.	.	4% 3%
Next Rs. 201—620	.	.	2.5% 2.5%
Minimum	Maximum	Minimum	Maximum
Rs. 17	Rs. 30	Rs. 14	Rs. 25

House Rent Allowance will not be payable to those employees who are provided with free accommodation by the Company, to those in receipt of Rent Compensatory Allowance or to those in receipt of low rent housing facility. Where an employee may be entitled to House Rent Allowance as well as Rent Compensatory Allowance or any other equivalent housing benefit, he will be entitled to ask for one such benefit only whichever is the greatest.

7. *Special Allowance—Head Peons.*—Head Peons in the Sub-staff Grade at H.O. will be paid an allowance of Rs. 10/- per month.

Selection of the Head Peon shall be made from the Senior Sub-staff who are not otherwise eligible for the post of Record Clerk.

Delivery Peons:

Regular Delivery Peons at H.O. who deliver at least 50 letters per day would be given an allowance of Rs. 5/- per month.

Typists:

Regular typists with a minimum of 3 years service as a typist on 1-1-1966 or on attaining a minimum period of three years as a typist shall be paid an allowance of Rs. 10/- per month provided they have a satisfactory record of service and pass prescribed typing tests.

However, in the case of typists who cease to be typists or who, after the grant of the allowance, are proved to be below a reasonable standard in terms of quality and quantity of performance, this allowance will be withdrawn. Decisions on such withdrawals will be taken in consultation with the Federation.

Punch Operators:

Punch Operators will be paid an allowance of Rs. 15/- per month.

Cash Carrying Peon:

The present allowance of Rs. 5/- per month to cash-carrying Peon at H.O. shall be increased to Rs. 7/- per month.

Peons required to do the job casually or occasionally would not be eligible for this allowance.

If in future at other centres or offices a case is established for the payment of this allowance, it will be paid at the rate of Rs. 5 per month only.

Assistant Dealing with Cash:

The present allowance of Rs. 10/- per month to assistants dealing with cash at H.O. shall be increased to Rs. 15/- a month.

Any assistant acting in the place of a Cashier will receive the above allowance pro-rata, should the period of acting exceed seven days during a month.

If in future, a case is established for the payment of this allowance at other centres or offices, it will be paid at the rate of Rs. 10/- per month only.

Head Office Clerks assisting Cashier on pay day will continue to receive Rs. 5/- per month as hitherto.

Duplicating and/or Banda Machine Operators:

Duplicating and/or Banda Machine Operators will receive Rs. 15/- per month.

Any member of the Sub-staff, other than the present incumbents who are in receipt of such allowance, will receive the Machine allowance as provided above pro-rata, provided such a person operates the machine for more than three hours a day for a period of seven days in a month.

Telephone Operators:

Telephone Operators will continue to receive special allowance of Rs. 20/- per month as hitherto.

8. Travelling and Halting Allowances.—The Travelling Rules in force from time to time shall apply.

If an employee is transferred at his own request, no transfer allowance or Rent Compensatory allowance shall be payable to him.

An employee on transfer may, at the discretion of the Company, be granted a transfer allowance not exceeding three months' basic pay or Rs. 1,000 whichever is less. Transfer allowance is not payable on the first posting.

Subject to an employee first contributing 15 per cent of the basic salary towards rent on transfer, the Company may grant Rent Compensatory Allowance not exceeding 15 per cent of basic salary on transfer. An employee may elect to take either transfer allowance or Rent Compensatory allowance, but not both. Rent Compensatory Allowance is not payable on first posting. Extreme cases of hardship will be considered when referred to.

In the case of employees in receipt of Rent Compensatory Allowance at the time of signing the Agreement, the Management agrees to maintain the status quo in respect of the Company's and the Employees' respective contributions towards rent in terms of amounts.

9. *Overtime.*—Overtime payment be made as at present, as per the provisions of the Local Shops and Establishments Act.

10. *Bonus.*—Payment of Bonus will depend upon the Company's profits of the year and will be fixed annually by the Board of Directors.

11. *Leaves.*—(i) Casual Leave.

Present rules to continue, subject to term 28 hereunder.

(ii) *Privilege Leave:*

In respect of earning of privilege leave, the present rules to continue. Privilege leave may be accumulated upto 100 days, with effect from the date of signing this Agreement.

A maximum of 75 days privilege leave, including encashment and actual leave may be granted at a time or during the course of a calendar year. However, out of these 75 days, maximum encashment of leave shall be 30 days and maximum actual leave shall be 60 days.

In respect of Sundays and Holidays, the present practice to continue.

(iii) *Sick Leave:*

In respect of earning of Sick Leave, the present practice to continue.

If an employee has not availed of sick leave in his earlier years, thereby forfeiting it, and his sickness continues beyond the period of leave due in accordance with the rules, he may in special cases, on being certified by a consulting Surgeon/Physician approved of by the Company, be granted additional sick leave upto a maximum of 4 months.

(iv) *Maternity Leave:*

A female employee who has been confirmed in the services of the Company shall be granted maternity leave with full pay for 12 weeks, to be taken preferably 6 weeks before confinement, and 6 weeks after confinement, and the birth of the child certified by a registered medical practitioner, should be notified to the Company.

Maternity leave shall not be granted in conjunction with sick leave. However, in case of genuine hardships, the management at its discretion may make an exception.

Maternity leave will be granted upto a maximum of three times during the total period of service of the employee in the Company.

(v) *Trade Union Leave:*

Trade Union leave for actual days of meetings, not exceeding six days or four days plus days of travel in a year will be granted to 2 per cent of the workmen, subject to a minimum of 2 workmen per Union, on the recommendation of the Union concerned.

12. Encashment of Privilege Leave.—A maximum of 30 days privilege leave may be encashed in one calendar year as per existing rules. The minimum amount of privilege leave which may be encashed at a time is 12 days and encashment will not be permitted more than twice in a calendar year.

13. Free Medical Facilities.—Present benefits to continue, but the Company will endeavour to take out hospitalisation policy for the benefit of the employee in consultation with the Federation.

14. Retiring Age.—The present retirement age of 60 years to continue.

15. Provident Fund.—The present rate of Provident Fund Contribution to continue, but on the revised basic salaries.

16. Gratuity.—Present practice to continue.

17. Adjustments and Fittings in.—To the basic salary as on 1st January, 1966, Rs. 65/- shall be added in the case of Sub-staff/Drivers, and Rs. 80/- for others, and fitted in the new grade.

18. Holidays.—With effect from 1st January 1967, the Company shall observe all Public Holidays declared at the beginning of the year by the respective State, Governments under the Negotiable Instruments Act, except 30th June and 31st December.

Any Public Holiday declared by the Government in the course of the year will not be automatically applicable, but in respect of these holidays, the Company will be guided by the practice in other leading Company will be guided by the practice in other leading Commercial Establishments.

Out of the non-mandatory Holidays declared at the beginning of the year, two alternative Holidays in lieu of two existing ones may be named at the beginning of the year, to be observed as Holidays in the Company.

Such Holidays shall not be applicable to employees on Special duty, to drivers, to watchmen and to caretakers. Drivers, Watchmen and Care-takers shall be given five specified Holidays in a calendar year, or overtime payment in lieu thereof with effect from 1-1-1967.

19. Concessional Working Hours on Sectional Holidays: It is agreed that Hindu employees will be allowed to leave Office at 2.45 P.M. without lunch or 3.30 P.M. with lunch on three days in a year and the employees belonging to other minority communities will be allowed to enjoy the same concession on two days in a year. The Federation will intimate to the Management in the first week of January every year the days and timings on which they would like to enjoy the above concession.

20. Record Clerks.—Record Clerks' functions shall be mainly clerical in nature. They will not be required to wear Uniforms and their Office timings shall be the same as for clerical staff.

21. Uniforms to sub-staff.—The present practice to continue. The Sub-staff shall wear the complete Uniform while on duty.

22. Change over to Clerical Work.—The Management may consider changing over to Clerical Work such Typists, Comptists, Stenos and Telephone Operators, who after training and on satisfactory performance in tests and interviews are found suitable and subject to vacancy.

23. Free P.A. Policy.—Present practice to continue, on the basis of the revised basic salary.

24. Preference to Employees' Children.—Subject to suitability, training test results and vacancy, employees' sons may be given preference in the matter of employment.

25. Scooters for Out-Door Staff.—May be considered by the Management whenever the job necessitates.

26. Loans for the Purchase of Vehicles etc:

The Management would consider a suitable Scheme with Hire Purchase or Credit Society if set up by the employees.

27. Existing Privileges and Amenities:

All existing rights, benefits and privileges shall continue as before.

28. Working Hours:

From 1-1-1967 the working hours in Bombay City will be increased from 36 to 36½ hours per week as follows:

Week days: 10 A.M. to 6 P.M. with a recess of 45 minutes from 1:15 P.M. to 2 P.M.

Saturday: Off

In lieu of this 2 days extra casual leave per year will be permitted.

Sub-staff Sub-staff members shall be required to attend the Office 15 minutes before and 15 minutes after Office hours

29. Grace Time:

The Management shall condone late coming by ten minutes after 10 A.M. Every late coming in excess of three late comings beyond 10 minutes in a month would be treated as casual leave, if due, or privilege leave or leave without pay, if no privilege leave is due

unless the late coming is condoned by the management.

30. Period of Agreement:

The Agreement shall take effect from 1st January, 1966 and shall remain in force upto 30th June, 1969.

It will be applicable to all the Administrative Staff of the Company, who were in the service of the Company as on 1-1-1966 or thereafter.

However, financial benefits accruing out of this Agreement will be payable with effect from 1-1-1966 except in the case of past payment for overtime, halting allowance and transfer allowance in respect of which there shall be no retrospective effect.

It is understood that in the event of any situation resulting in material changes affecting the living conditions of the employees, the Management will consider the situation sympathetically.

Any dispute as to the interpretation of any of the clauses of this Settlement shall be resolved by mutual discussion.

The parties agree to report the implementation of the Settlement within three months.

NOTE.—In view of the employees' of The South India Insurance Co. Ltd., having since formed The South India Insurance Co. Ltd. Employees' Association, any reference in the above Memorandum of Settlement to Federation Union' is deemed to be a reference to The South India Insurance Co. Ltd. Employees' Association, for the purpose of this Settlement.

APPENDIX 'A' to 1966 Settlement

Dearness Allowance Scale

(For All India Consumer Price Index 161-165)

1949-100

Basic Rs.	For Sub-Staff and Drivers		D.A. Rs.	Basic Rs.	For Others		D.A. Rs.
	1-68	Flat	81-130		Flat	101-200	
69-118			45%	131-180			45%
119-168			95%	181-280			95%
169-241			47·5%	281-430			47·5%
				431-580			31·25%
				518-620			27·25%
				Maximum D.A.			10%
							400/-

For every five points increase in the All India Consumers Price Index from 161 or decrease from 165 i.e. when it exceeds 165 or falls below 161, the above D.A. shall be increased/decreased as under :

	Basic Salary (Rs.)	Percentage
Next	1-100	5 %
Next	101-200	Add 2·5 %
	201-500	Add 1·25 %

In the case of fall of each five points in the All India Consumer Price Index below 165, the calculation of the consequent decreased D.A. shall be made in respect of new basic salaries, less Rs. 64/- in the case of Sub-Staff and Drivers and Rs. 76/- in the case of Other Staff. But so long as the said Index does not fall below 161, the calculation of the consequent decreased D.A. shall be made in respect of the full new basic salaries.

APPENDIX 'B'
 [Under Item 1(i)(b) of this Settlement.]

Terms and Conditions of Service applicable to Administrative Staff at places other than H.O. (Bombay), Calcutta, Madras, Delhi, Ahmedabad, Indore, Ambala, Dehra Dun and Kanpur.

1. Basic Salary Scales.

Grade	Salary Scales with effect from 1-1-1970	
'B'	Rs. 165-7-200-8-240-10-280-EB-15-355-20-455	(24 years)
'A'	Rs. 210-10-290-EB-15-410-20-470-25-520	(21 years)
'SA'	Rs. 330-20-430-EB-25-530-30-620	(12 years)
Record Clerks	Rs. 135-5-185-EB-6-227-8-251	(20 years)
Drivers	Rs. 125-5-160-6-220-7-241	(20 years)
Sub-Staff	Rs. 100-3-136-4-140-5-190	(23 years)

(Note: For the period prior to 1-1-1970 other lower Scales applied)

2. Dearness Allowance:

The Scheme of Dearness Allowance, as detailed below, which was in force as on 1-1-1970 will continue to apply unaltered :—

Dearness Allowance Scale.
 (For All India Consumer Price Index 161-165)

1949-100

For Sub-Staff and Drivers.		D.A.	Basic	For Others		D.A.
Rs.				Rs.		
1-68	Flat		Rs. 30/-	1-80	Flat	Rs. 20/-
69-118			45%	81-130		45%
119-168			95%	131-180		95%
169-241			47·5%	181-280		47·5%
				281-430		31·25%
				431-580		27·25%
				581-620		10%
				Maximum D.A.		Rs. 400/-

For every five points increase in the All India Consumers Price Index from 161 or decrease from 165 i.e. when it exceeds 165 or falls below 161, the above D.A. shall be increased/decreased as under:—

Basic Salary	Percentage
Rs. 1-100 Next Rs. 101-200	5% Add 2·5%

In the case of fall of each five points in the All India Consumer Price Index below 165, the calculation of the consequent decreased D.A. shall be made in respect of new basic salaries, less 64/- in the case of sub-staff and Drivers and Rs. 76/- in the case of other staff. But so long as the said Index does not fall below 161, the calculation of the consequent decreased D.A. shall be made in respect of the full new basic salaries.

(NOTE:—For the period prior to 1-1-1970 a lower D.A. Scheme applied).

3. House Rent Allowance:

The Administrative Staff at these places will not in any case be eligible to any H.R.A. However, those members of the staff at these places, who are in receipt of H.R.A. on the date of this Settlement will continue to receive H.R.A. in accordance with the terms of Item 6 of the 1966 Settlement (Appendix 'A').

4. Special Allowance:

No special allowance will be paid to Cash-carrying Peons, Assistants dealing with Cash, Duplicating and/or Banda Machine Operators and Telephone Operators at these places.

5. Bangalore:

With regard to Administrative Staff serving at Bangalore on the date of this Settlement, to whom the terms and conditions to service stated in the 1966 Settlement Appendix 'A'), were made applicable as from 1st January 1969, they will continue to be governed by the same terms and conditions of service which were applicable to them on behalf on them date of this Settlement.

6. Transferees:

With regard to Administrative Staff transferred from H.O. (Bombay), Calcutta, Madras, Delhi, Ahmedabad, Indore, Ambala, Dehra Dun and Kanpur to any places other than these and who even after such transfer and upto the date of this Settlement, continued to enjoy the benefits of the 1966 Settlement (Appendix 'A'), such persons will continue to be governed hereafter by the same terms and conditions of service which were applicable to them on the date of this Settlement.

7. General:

In respect of all other terms nad conditions of service the existing provisions of the 1966 Settlement (Appendix 'A') will also apply to these employees.

APPENDIX 'C'

[Under Item 1(i)(b) of this Settlement]

Revised basic Salary and D.A. of employees covered under Item 1(i)(b) of this Settlement, consequent upon incremental adjustments under Item 2 of this Settlement, Subject to eligibility under and provisions of this Settlement.

Sl. No.	Name	Grade	Revised Basic Salary & D.A. as on							
			30-6-1969		1-7-1969		1-1-1970		1-1-1970	
			Basic	D.A.	Basic	D.A.	Basic	D.A.	Basic	D.A.
1.	Mr. B. Bhattacharjee	B	Rs. 144	235	Rs. 170	253	Rs. 260	216	Rs. 270	221
2.	„ P. K. Bose	Sub-Staff	45	121	55	133	124	120	127	123
3.	„ R. Ramanathan	B.	113	211	136	228	224	196	232	200
4.	„ V. T. Thomas Kutty	B	113	211	128	223	216	191	224	196
5.	„ P. R. Subbiah	B	120	216	144	235	232	200	240	205
6.	„ A. S. T. Sharma	A	190	268	222.50	280	320	232	335	248
7.	„ T. P. Hanumanthan	Sub-Staff	43	119	53	130	121	117	124	120
8.	„ Paul Manickam	Sub-Staff	39	115	49	124	118	112	121	117
9.	„ P. G. Baddi	B	85	178	99	200	186	172	193	177
10.	„ K. L. Jacob	B	106	205	128	223	216	191	224	196
11.	„ C. M. Kurian	Sub-Staff	53	130	70	156	140	139	145	146
12.	„ K. P. Joseph	Sub-Staff	49	124	61	141	130	127	133	131
13.	„ Kurian Vattukulam	A	180	260	222.50	280	320	232	335	248
14.	„ P. K. Verma	B	113	211	128	223	216	191	224	196
15.	„ Punjab Singh	B	99	200	120	216	208	187	216	191
16.	„ Lal Karan	B	99	200	120	216	208	187	216	191
17.	„ H. H. Hakim	B	99	200	120	216	208	187	216	191
18.	„ D. P. R. Tiwari	Sub-Staff	41	117	51	128	121	117	124	120
19.	„ P. J. Jadhav	Sub-Staff	35	111	45	121	115	110	1182	112
20.	„ G. S. Ranade	Record Clerk	64	147	85	178	170	155	175	161
21.	„ S. Veigas	Sub-Staff	37	113	47	123	115	110	118	112
22.	„ Madanlal Sharma	Sub-Staff	45	121	55	133	124	120	127	123

NOTE :— 1. D.A.: As applicable for the All India Consumer Price Index No. 216-220 (1949-100) and subject to variation as per provisions of Appendix 'B' of this Settlement.

2. This statement covers Administrative Staff of the Company who as on 30-6-1969 and thereafter upto the date of this Settlement continue to serve at places other than H.O.(Bombay), Calcutta, Madras, Delhi, Ahmedabad, Indore, Ambala, Dehra Dun and Kanpur excluding persons transferred to or from the above places.

APPENDIX 'D'

The South India Insurance Company Limited, Bombay.

Item 4 of the Settlement

ILLUSTRATIVE CASES as applicable to eligible staff at H.O. (Bombay), Calcutta, Madras, Delhi Ahmedabad, Indore, Ambala, Dehra Dun and Kanpur.

Grade	Date of Joining	No. of years service in the grade as on 30-6-1969 Yrs./Mths./Days	No. of increments available in the grade	Assumed Basic Salary in the grade as on 30-6-69	Eligible for increase	Revised Basic Salary with effect from 1-7-69
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ILLUSTRATION UNDER ITEM NO. 2 (ii) :				Rs.	Rs.	Rs.
'B'	15-3-57	12	3	15	4	260

ILLUSTRATIONS UNDER ITEM NO. 2 (iii) :				Rs.	Rs.	Rs.
(i) 'B'	6-1-47	22	5	24	4	415
(ii) 'B'	7-3-42	27	3	23	4	455 (Ceiling)

ILLUSTRATION UNDER ITEM NO. 2 (iv) :

Date of Joining : 'B'	6-11-58	10	7	24	4	325*	70	
Promotion to : 'A'	1-1-64	5	6	0	2	335**	30	
Promotion to : 'SA'	1-1-69	0	6	0	1	370	20	Eligible for increase

*If the employee was to continue in 'B' Grade since his joining the Company on 6-11-58 i.e. had he not been promoted to A/SA Grade, his Basic Salary in 'B' Grade as on 30-6-1969 would have been Rs. 325/-, and he would have been eligible to receive Rs. 70/- under Item 2 (ii).

of Rs. 70/- Hence Basic Rs. 430/- in 'SA' Grade i.e. (Rs. 370/- + Rs. 60/- in Basic). Balance Rs. 10/- as Personal Pay.

**If the employee was to continue in 'A' Grade since his promotion to 'A' w.e.f. 1-1-64 i.e., had he not been promoted to 'SA' Grade, his basic salary in 'A' Grade as on 30-6-1969 would have been Rs. 335/- and would have been eligible to receive Rs. 30/- under Item 2 (ii).

Salary

As On	Old Assumed	Revised	
		Rs.	Rs.
ILLUSTRATION UNDER ITEM NO. 2 (v) :			
Employee who is in 'B' Grade and has completed more than 10 years service in 'B' Grade as on 30-6-1969 and whose basic salary was Rs. 415/- in 'B' Grade as on 30-6-1969.			
30-6-1969	Basic 415	Basic 455 (Ceiling)	and Personal Pay Rs. 40/- (1-7-69) (Eligible for increase of Rs. 80/-, out of which Rs. 40/- will be in basic, Balance Rs. 40/- as Personal Pay).
1-1-1970	Basic 435	Basic 455 (Ceiling)	and Personal Pay Rs. 60/-, including grade increment as from 1-1-70.
1-1-1971	Basic 455 ^x (Ceiling)	Basic 455 (Ceiling)	and Personal Pay Rs. 80/-, including grade increment as from 1-1-1971.
1-1-1972	Basic 455 ^x (Ceiling)	Basic 455 (Ceiling)	and Personal Pay Rs. 80/-.

ILLUSTRATIONS UNDER ITEM NO. 2 (vi) :

(i) EMPLOYEE IN 'B' GRADE AS PER ILLUSTRATION UNDER ITEM NO. 2 (ii) ABOVE

As On	Salary	
	Assumed Old Basic (Rs.)	Revised Basic (Rs.)
30-6-1969	260	310 (1-7-1969)
1-1-1970	270	325
1-1-1971	280	340
31-12-1971	280	340

NOTE :—As on 31-12-1971, he is on efficiency bar at basic salary of Rs. 280/- (old) in the grade of Rs. 165-7-200-8-240-10-280-FB-15-355-20-455—'B' Grade. He will be considered to be on efficiency bar in the grade at basic salary of Rs. 340/- (Revised) as on 31-12-1971, under item 2 (vi) of this settlement.

(ii) EMPLOYEE WHO IS IN 'B' GRADE WITH MORE THAN 10 YEARS SERVICE IN 'B' GRADE AS ON 30-6-1969.

As On	Assumed Old Basic (Rs.)	Revised Basic (Rs.)
30-6-1969	250	295
1-1-1970	260	310
1-1-1971	270	325
1-1-1972	280	340
31-12-1972	280	340

NOTE.—As on 31-12-1972 he will be on efficiency bar at basic salary of Rs. 280/- (old) in the grade of Rs. 165-7-200-8-240-10-280-FB-15-355-20-455—'B' Grade. He will be considered to be on efficiency bar in the grade at basic salary of Rs. 340/- (Revised) as on 31-12-1972, under Item 2 (vi) of this Settlement.

(iii) EMPLOYEE WHO IS IN 'B' GRADE WITH 9 YEARS SERVICE IN 'B' GRADE AS ON 30-6-1969.

As On	Salary	
	Assumed Old Basic (Rs.)	Revised basic (Rs.)
30-6-1969	232	260
1-1-1970	240	270
1-1-1971	250	280
31-12-1971	250	280

NOTE.—As on 31-12-1971, he will be on efficiency bar at basic salary of Rs. 280/- (Revised) in the Grade of Rs. 165-7-200-8-240-10-280-FB-15-355-20-455—'B' Grade.

ILLUSTRATIONS UNDER ITEM NO. 3

New recruits in regular service on the date of signing this Settlement:

GRADE

Date of joining
Date of confirmation
Eligible to receive Ad-hoc special Allowance under Item 3.

NEW RECRUITS

Mr. 'A'.	Mr. 'B'.
Sub-Staff	'B,
1-7-1969	1-8-1969
1-1-1970	1-2-1970
Rs. 20/- p.m. w.e.f. -1-1970	Rs. 35/- p.m. w.e.f. 1-2-1970

NOTE.—New Recruits (i.e. those who joined the Company's regular service on or after 1st July, 1969, and continue to be in the service of the Company on the date of signing this Settlement), are eligible to receive this Ad-hoc Special Allowance only.

NOTE.—The principles underlying the illustrations given above under Item 4 of the Settlement are applicable to appropriate categories of staff, as per the provisions of the Settlement.

New Delhi, the 7th April 1972

S.O. 952.—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government on the 29th March, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 53 of 1971

PARTIES:

Employers in relation to the Central Bank of India,
AND

Their workmen.

PRESENT:

Sri S. N. Bagchi, Presiding Officer.

APPEARANCES:

On behalf of Employers.—Sri S. M. Basu, Law Officer.

On behalf of Workmen.—Sri A. D. Singh, President, Bengal Bank Workers' Organisation.

STATE: West Bengal

INDUSTRY: Banking.

AWARD

By Order No. 23/145/70/LRIII, dated 26th March, 1971, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute existing between the employers in relation to the Central Bank of India and their workmen, to this Tribunal, for adjudication:

"Whether the action of the management of Central Bank of India, Calcutta, in transferring with effect from the 13th September, 1970 Shri Ram Kumar Dubey from the post of Cash Peon of the Hatkhola Branch of the Bank to the Despatch Section and thereby depriving him of the Special Allowance, was justified? If not, to what relief is he entitled?"

2. The reference was registered on 6th April, 1971. Application was received from the workmen praying for extension of time to file written statement which was fixed on a date 15 days from the date of receipt of the notice. The union representing the workmen was informed that written statement would be accepted if filed within 20th May, 1971. On 11th May, 1971, the management filed their written statement. On 22nd May, 1971 the Union representing the workmen filed the written statement beyond the date fixed without showing any cause of delay. On 25th January,

1972 the union on behalf of the workman filed a rejoinder without leave, to the statement of the management which was filed so long back as on 11th May, 1971. On 13th March, 1972 the case was taken up for final adjudication. The management's case appears in paragraph 10 of the written statement which runs as follows:

"10. Without prejudice to the above contentions the Bank states as under:

(a) Shri Ram Kumar Dubey who was working as a cycle peon in the Despatch Department of the Hatkhola Branch of the Bank until 23rd May, 1967.

(b) Due to the absence of leave of the permanent Cash Peon Shri Khunkun Bari of the Cash Department and absence of their Collection Peons of the Hatkhola Branch Shri Ram Kumar Dubey Cycle peon of the Despatch Department was allowed to work temporarily in the Cash Department with effect from 23rd May, 1967, at his own seeking purely on temporary basis. After the resumption of duty by the permanent cash peon Shri Bari, between 23rd June, 1967 and 1st July, 1967 instructions were given to Sri Dubey to revert to the Despatch Department but he did not carryout the said instructions. He was again instructed to the same effect by agent's letters dated 3rd July, 1967 and 16th August, 1967. Shri Dubey still flouted the office instructions and continued to stay in the Cash Department, in utter violation of the office discipline, until he ultimately submitted to office order for transfer to the H/S/S/ Department as a peon of the said Department with effect from 13th September, 1969 as hereinafter stated."

The Union representing the workman did not traverse paragraph 10 of the management's written statement in the written statement filed on 22nd May, 1971. In paragraph 1 of the statement filed by the union for the workman on 22nd May, 1971 it was asserted that the workman was entrusted with the duties of a Cash peon in the Hatkhola branch of the Central Bank of India with effect from 1st July, 1967, and that he worked as a Cash peon till 12th September, 1969. From 13th September 1969 the workman obeyed the Bank's order transferring him to H/S/S Department of the Hatkhola Branch of the Bank for working as an ordinary peon and joined there as ordinary peon on 13th September, 1969.

3. I need not dilate more on the facts of this case. I mentioned that the written statement by the workman represented by the union was filed beyond time fixed without any leave and also the rejoinder to the management's statement. When the case was opened, for the Union represented by Sri A. D. Singh, President of Bengal Bank Workers' Organisation, Sri Singh

made certain admissions recorded in the Order-sheet of the proceedings which are as follows:

"For the workman Ram Kumar Dubey Mr. Singh admits that the workman did officiate in the leave vacancy of Khunkhun Bari, permanent Cash peon of the Cash department of Hatkhola branch of the Central Bank of India; Shri Ram Kumar Dubey, Cycle peon of the Despatch Department was allowed to work temporarily in the leave vacancy of Khun Khun Bari with effect from 23rd May, 1967 to 23rd June, 1967. Mr. Singh further admits that Shri Dubey, Cycle peon, on return of the permanent incumbent Shri Khun Khun Bari was asked by the management to revert by orders dated 23rd June, 1967 and 1st July, 1967 to his original post in the Despatch department. He further admits that Ram Kumar Dubey did not carry out the order of the management and continued to hold the post of Cash peon. He further admits that on 13th September, 1969 Ram Kumar Dubey joined in the post of ordinary peon in the Home Savings Department of the Bank.

Shri Singh submits that his impression is that during the period from 23rd June, 1967 to middle of June, 1969 there was a sanctioned second post of Cash Peon in the Cash department of Hatkhola branch of the Bank. He states that he is not certain whether there was a second post. Mr. Singh also states that as Dubey was holding the second post of the peon, the Cash department at Hatkhola branch from 23rd June, 1967 to 13th September, 1969 and, that he has a right to that post and that he cannot be transferred from that post."

The admission made by the representative of the workman disputant clearly, amongst other things, show that as the workman was holding the second post of Cash Peon in the Cash department at Hatkhola branch of the Bank from 23rd June, 1967 to 13th September, 1969, his transfer with effect from 13th September, 1969 from the Cash department to H/S/S department of the bank was illegal and arbitrary as the workman had a right to hold the post of Cash Peon in the Cash department.

4. Now let me analyse the reference itself. The Schedule to the reference reads as follows:

"Whether the action of the management of Central Bank of India, Calcutta, in transferring with effect from the 13th September, 1970 Shri Ram Kumar Dubey from the post of Cash Peon of the Hatkhola Branch of the Bank to the Despatch Section and thereby depriving him of the Special Allowance, was justified? If not, to what relief is he entitled?"

It is nobody's case that Shri Ram Kumar Dubey was transferred by the management of the bank from the post of a Cash peon of the Hatkhola branch of the bank to the Despatch section of the bank with effect from 13th September, 1970. The reference relates to an order of the Bank transferring Shri Ram Kumar Dubey workman with effect from 13th September, 1970. But the Union and the management never contended before this Tribunal that any order was passed at any time by the Bank transferring the workman Ram Kumar Dubey from the post of a Cash Peon to the post of a Peon in the Despatch section of the Hatkhola branch of the Bank with effect from 13th September, 1970. By an order dated 14/16th June, 1969 and subsequent orders, ending on 8th September, 1969, since the earlier orders were violated by the workman Ram Kumar Dubey, the bank transferred Ram Kumar Dubey not to despatch section of the bank but to H/S/S department as Ram Kumar Dubey by his own letter dated 22nd July, 1967, Ex. M-XI, informed the

management of the Bank that under the medical advice he would not be able to perform the duties of a despatch peon in the despatch section of the Hatkhola branch of the bank, riding on a cycle for which however ordinary cycle allowance was available. So, the bank by its order dated 14/16th June, 1969, Ex. M (VIII), and subsequent order, Ext. M(IX), dated 8th September, 1969 directed the workman Ram Kumar Dubey who was rendering service as a Cash peon in the Cash department of the Hatkhola branch of the Bank violating the definite orders of the bank, from Cash Peon's post to the post of an ordinary peon in H/S/S department of the bank. The workman lastly obeyed the Bank's order dated 8th September, 1969, Ext. M-VIII, on 13th September, 1969 when he joined in the post of a peon in H/S/S (Home Savings Section) department of the Hatkhola Branch of the Bank. Therefore, no order was passed by the Bank on any date with effect from 13th September, 1970 transferring Ram Kumar Dubey from the post of Cash Peon in the Hatkhola branch of the bank to the post of a Despatch peon of the same branch of the bank. Therefore, in the face of the facts disclosed and admitted before the tribunal in the proceedings of the adjudication, the matter under reference is throughly inconsistent and irrelevant. There was no order of the bank transferring workman Ram Kumar Dubey from the post of a Cash Peon with effect from 13th September, 1970 to the post of a peon in the Despatch section. The workman Ram Kumar Dubey joined on 13th September, 1969 relinquishing his so-called post of a Cash peon in the Cash department of the bank in the post of a ordinary peon in the H/S/S department of the bank. Not only in the written statement, but also in the admission as made for the workman by the union official Shri A. D. Singh and recorded in the order sheet, there can be no room for a dispute, far less to speak of an 'industrial dispute' as the one set out in the Schedule annexed to the order of reference needing adjudication by this Tribunal.

5. The reference, therefore, is not relavant to and consistent with the grievance that the workman through the union has put forward before the Tribunal at the hearing of the reference for adjudication. On the very face of the facts admitted by the workman, represented by the union, there is no industrial dispute as the one setforth in the schedule to the reference. So, the reference is ultravires in the jurisdiction of the Central Government and cannot be entertained by this Tribunal for adjudication. It is accordingly rejected.

This is my award.

Dated,

March 23, 1972.

(Sd.) S. N. BAGCHI,

Presiding Officer.

[No. F.23/145/70-LR.III.]

S. S. SAHASRANAMAN, Under Secy.

(Department of Labour and Employment)

New Delhi, the 25th March, 1972

S.O. 953.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Nagpur, in the industrial dispute between the employers in relation to the management of New Majri Colliery, Post Office Majri Khadan, Dist. Chanda (Maharashtra), and their workmen, which was received by the Central Government on the 21st March, 1972.

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NAGPUR

REFERENCE (CGT) NO. 7 & 10 OF 1969

PRESENT

Shri W. K. Almelkar, B.A., LL.B., Presiding Officer

BETWEEN

The Management of New Majri Colliery P.O. Majri
Khadan district Chanda.

First Party.

AND

Their Workmen

Second Party.

APPEARANCES

Shri S. M. Singh, Chief Personnel Officer—For
Party No. 1Shri S. W. Dhabe, President of the Maharashtra
Pradesh Rashtriya Koyal Khadan Kamgar
Sangha—for Party No. 2

STATE: Maharashtra

INDUSTRY: Colliery

Nagpur, dated the 18th February 1972

ORDER

These are the preliminary objections raised by the Management of the New Majri Colliery, District Chanda, regarding the validity of the References made by the Central Government under Section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

2. Reference (CGT) No. 7/69 arises out of the Reference dated 16th September, 1969 made by the State Government for the adjudication of an industrial dispute between the employees in relation to the managements of Messers Rayatwari Colliery, Chanda; Kamptee Colliery Nagpur, New Majri Colliery, Chanda, Ballarpur Collieries, Nagpur and Sasti Colliery, Nagpur and Their Workmen. The dispute is regarding 3 matters namely, (1) nonpayment of the arrears of wages as per the recommendations of the Wage Board for Coal Mining Industry; (2) nonpayment of variable D.A. as per the recommendations of the Wage Board for Coal Mining Industry and (3) non-granting of graded annual increments from 15th August 1968 as per the recommendations of the Wage Board for Coal Mining Industry. Compromise Awards have been passed in relation to Managements of Rayatwari Colliery, Chanda, Kamptee Colliery, Nagpur, Ballarpur Collieries Nagpur and Sasti Colliery, Nagpur AND Their Workmen by this Tribunal. The only dispute surviving is between the Management of New Majri Colliery Chanda And Its Workmen.

3. Reference (CGT) No. 10/69 arises out of the Reference dated 23rd October 1969 made by the State Government under Section 10(1)(d) of the Industrial Disputes Act, 1947. The said Reference relates to the Managements of only 2 collieries—Kamptee Colliery and New Majri Colliery. The matters referred for adjudication are identical with those referred to in Reference No. 7/69. A compromise Award has been passed with respect to the dispute between the Management of Kamptee Colliery and its workmen. So, the dispute surviving is only between the management of New Majri Colliery and its workmen.

4. The management of the New Majri Colliery have raised preliminary objections in both these matters. It is contended that the reference under section 10(1)(d) of the Act is misconceived and invalid. According to the management, there was a bipartite collective settlement on 15th April 1969 between the management and the workmen represented by the New Majri

Colliery Mazdoor Congress Union which has been duly registered under the Trade Unions Act. The issues referred for adjudication by the Central Government are all covered by this settlement which is quite valid and still in force. In view of Section 18 of the Act, the reference is not maintainable in law. It is further contended that the workmen of this colliery are represented by their duly authorised registered Trade Union known as "New Majri Colliery Mazdoor Congress Union." It is the only trade union of the workmen employed at the said colliery. So, no other trade union has any *locus standi* to raise any dispute nor represent the workmen employed at the said New Majri Colliery. Further, according to the management, there is neither any existence of a dispute nor an apprehension of any dispute between the management and the workmen employed at the said colliery relating to the issues referred to for adjudication by the Central Government in view of the subsisting settlement dated 15th April 1969. In view of the absence of the existence of a dispute or an apprehension thereof, the reference under Section 10 of the Act is not maintainable in law. The reference is also invalid in law since no valid conciliation proceedings were held in respect of the matters referred to adjudication in terms of Notification dated 16th September, 1969. The management had challenged the legality of the said reference by registered letter dated 14th October, 1969. The Central Government was called upon to take steps for withdrawing or cancelling the name 'New Majri Colliery' wrongly stated in the letter dated 16th September, 1969. However, the Central Government communicated no comment or decision to the management. On the contrary, the Central Government issued a second order of reference dated 23rd October, 1969 for adjudication by this Court relating to the very same issues. The management states that the reference dated 23rd October, 1969 is *prima facie* not maintainable in law. The Management has therefore, challenged the maintainability of the second reference also.

5. The Maharashtra Pradesh Rashtriya Koyal Khadan Kamgar Sangha, Nagpur, filed through its President, a reply to the preliminary objections raised by the management. It is submitted that the alleged agreement dated 15th April, 1969 is illegal being contrary to the recommendations of the Central Wage Board. The said agreement is also highly prejudicial to the interests of the workmen. The agreement appears to be made *malafide* in order to defeat the recommendations of the Central Wage Board for Coal Industry. It is contended that under Section 10(1) and 10(5) of the Act, the Central Government has ample powers to make such reference. The disputes are bound to arise if the Central Wage Board recommendations are not implemented even though accepted by the Central Government. Coal was decontrolled for the same and even purchasing rate of coal by the Government and railways was increased to give a fair deal to the workmen. It is denied that there is only one Trade Union as alleged and the so-called settlement decides the dispute. It is also contended that the 2nd settlement dated 24th December, 1970 is bad in law because it was made during the pendency of this reference.

6. The following preliminary issues are framed and my findings are given against the same.

Pre: Issues

Findings

- | | |
|--|---|
| 1. Whether the Reference is bad in law and without jurisdiction in view of the settlement dt. 15-4-69 and 24-12-70. | In view of the settlement dated 15-4-69 only. |
| 2. Whether the Maharashtra Pradesh Rashtriya Koyal Khadan Kamgar Sangha has in law a right to represent the workmen of the New Majri Colliery? | No. |

Pre: Issues

Findings

3. Whether the settlements dated 15-4-69 and 24-12-70 are binding on the parties in view of Section 18(1) of the Industrial Disputes Act, 1947? If so, what effect on the present proceedings?

Settlement dated 15-4-69 only is binding.

The reference is incompetent.

7. In order to appreciate the various contentions raised on behalf of the management of the New Majri Colliery, it may be useful briefly refer to the correspondence that passed between that Management and the Government before these 2 references were made by the Central Government. The management had first received a letter dated 24th July, 1968 (Exh. 3) from the Asstt. Labour Commissioner (C), Nagpur, together with its enclosure namely a letter dated 3rd May, 1968 from the President Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh, Nagpur. It may be noted that by that letter of the Union, they had given notice of their intention to go on strike from 16th August, 1968 and the Asstt. Labour Commissioner (C) Nagpur, had forwarded the same to the management. This letter was immediately replied to by the Representative of the Management *vide* letter dated 26th July, 1968 (Ex. E-4) challenging therein that the Union which had served a strike notice had no membership in the New Majri Colliery and hence, that union was not competent to serve the strike notice. The Asstt. Labour Commissioner (C) Nagpur, while sending his report to the Government *vide* his letter dated 1st August, 1968 failed to make a mention of this contention of the management. After receiving a copy of that letter, the management informed the Asstt. Labour Commissioner (C) Nagpur *vide* letter dated 6th August, 1968 (Ex. E-6) forwarding copies to all concerned, that the report of the Asstt. Labour Commissioner (C) Nagpur is erroneous. The Asstt. Labour Commissioner (C) had sent notices to the parties for a joint discussion but, while sending his report, the same was treated by him as failure of conciliation proceedings. When the report of the Asstt. Labour Commissioner (C) was acknowledged by the Section Officer of the Ministry (Ex. E-7) forwarding copies thereof to the parties concerned, the Management again contested *vide* their letter dated 20th August, 1968 (Ex. E-8) reiterating their earlier contention. After a long interval of nearly 14 months, the management received the order of reference dated 16th September, 1969. Then, the Chief Personnel Officer *vide* letter dated 14th October, 1969 (Ex. E-9) challenged the legality of the reference and also pointed out to the settlement dated 15th April, 1969 (Ex. E-1) and asserted that there was no dispute in existence or apprehended in view of the aforesaid settlement. After receiving that letter from the management, the Government cancelled the order dated 18th September, 1969 *vide* letter dated 6th November 1969 (Ex. E-10) and endorsed a copy of the same to the Chief Personnel Officer. Again on 23rd October 1969, the management received another order of reference on the same issue and the same was also challenged by the management's letter dated 10th November 1969 (Exh. E-11).

8. Now, the main contention of the management is that both these references made by the Government are incompetent because, there was no dispute in existence or apprehended, management and the workmen having come to settlement dated 15th April, 1969. A copy of the settlement is filed on record. As per the settlement, the workmen had agreed to accept the payment of Rs. 30.00 already paid to each and every worker against their all arrear dues consequent to Wage Board Recommendations from 15th August 1967 to 27th April 1968. Secondly, the workmen had agreed to accept Variable Dearness Allowance payment @ 0.78 paise per day for a period of three years from the

very date of implementation of the recommendations of Wage Board. As regards the increments, it was agreed that increment shall not be given to staff and workmen from the respective due dates of increments under the Recommendations of the Wage Board for a period of 2 years from the very date of implementation of the recommendations of Wage Board. It cannot therefore, be doubted that the issues referred for adjudication are all covered by this settlement.

9. Now, the question is whether this settlement dated 15th April 1969 is a valid settlement in accordance with law. If it can be regarded as a valid settlement, then, the provisions of Section 18(1) of the Industrial Disputes Act, 1947 would come into play. It provides that a settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. Now, 'settlement' is defined in Sec. 2(p) of the Act. It may be useful to reproduce that definition:

"2(p)—'settlement' means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer."

10. I shall presently show that this settlement has been made and signed as per section 2(p) read with Rule 58 of the Industrial Disputes (Central) Rules 1957. This settlement has been made on behalf of the workmen by the New Majri Colliery Mazdoor Congress Union. The evidence on record would go to show that this union had a right to represent the workers of the New Majri Colliery for the purposes of this settlement. On behalf of that Union, Shri Tripathi has entered the witness box. He is a Treasurer of that Union. He says that the Union is duly registered under the Trade Unions Act. In this connection I may refer to Ex. U-1 which is a copy of certificate of registration issued by the Registrar of Trade Unions, Maharashtra, Bombay. It would appear that the union was registered on 3rd April 1965 and given registration No. 4860. It would also appear from Ex. U-2 and U-3 that the management of the New Majri Colliery has recognised this Union for the period from January to December 1970 and again from January to December 1971. Shri Tripathi says that all the employees working in New Majri Colliery are the Members of his union and that Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh has no membership in this colliery. This union has filed on record a membership register and the entries therein would go to show that the total membership is 850. It would appear that practically cent per cent workers are the members of this Union. In the Cross-examination, Shri Tripathi has stated that the New Majri Colliery Mazdoor Congress Union is an independent Union not affiliated to All India Body. The Union has an account in the post office and it submits annual returns. The Union is still functioning in this colliery. It appears that this union has been formed only for the purpose of safeguarding the rights of the workers of this particular colliery. So, the activities of this Union are confined to the workers of the New Majri Colliery.

11. Now, the settlement dated 15th April 1969 has been signed on behalf of the management by Shri Shrivastava, Manager of the Colliery and on behalf of the workers, it has been signed by Shri Tiwari, General Secretary of the Union above-mentioned. It would therefore, appear that the settlement has been signed by the parties in the manner as prescribed by

Rule 58 of the Industrial Disputes (Central) Rules 1957. It may also be noted that according sub rule (4) of Rule 58 *ibid*, the copies of this settlement have been sent jointly by the Management and the Workers Union to the Central Government, Chief Labour Commissioner Central New Delhi, Regional Labour Commissioner (Central) and to the Asstt. Labour Commissioner (Central). It would therefore, appear that the settlement dated 15th April 1969 is perfectly in accordance with law.

12. It was faintly urged by Shri Dhabe appearing for the Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh that the terms of settlement dated 15th April 1969 are extremely unfair and prejudicial to the interests of the workers and in this connection, Shri Dhabe invited attention to the terms of the compromise Award passed by this Court between the managements of other collieries and their respective workmen. As I have pointed out, this settlement was entered into by New Majri Colliery Mazdoor Congress Union which is a registered and recognised union and which had therefore, effectively represented the workmen of that colliery for the purpose of that settlement. At no point of time, had that Union or any member of the union or worker made any grievance about any of the terms of settlement dated 15th April 1969. In fact, in the proceedings before me, that union has given its unstinted support to the management in the matter of the preliminary objections raised by the management. Even if it is assumed for the sake of argument that any or all terms of that settlement are unfair or detrimental to the interests of the workmen, that would not be a sufficient ground to render the settlement invalid or illegal. In that event, it is open to the aggrieved party to take appropriate steps in accordance with law to terminate the settlement. So, this objection raised by Shri Dhabe should not detain us any further.

13. Now, these references are made by the Central Government under Section 10(1)(d) of the Industrial Disputes Act, 1947. According to the said provisions, the Government can refer the dispute to arbitration if it is of the opinion that any industrial dispute exists or is apprehended. In this connection, it is rightly urged on behalf of the management that the management and the workers had entered into a valid settlement dated 15th April 1969 with regard to the matters for which these references are made by the Central Government. It is rightly pointed out that the aforesaid settlement covers all the 3 matters referred by the Government and it was in force at the time of the References. It must therefore, be held that there was no 'industrial dispute' to be referred for adjudication. In this connection, I may refer to Burmah Shell Workers Union Vs. State of Kerala (1960 I LLJ 323).

14. In this connection, I may also refer to the decision of the Supreme Court reported (1970 Lab. I.C. 1033) in Western India Watch Co. V. its workmen. It was observed by Their Lordships that Government has certainly a discretion to make a reference for adjudication but the discretion is neither unfettered nor arbitrary, for Section 10(1)(d) there must exist an industrial dispute as defined by the Act or such a dispute must be apprehended when the Government decides to refer it for adjudication. No reference thus can be made unless at the time when the Government decides to make it, an industrial dispute between the employer and his employees either exists or is apprehended. No reference is contemplated by the section when the dispute is not an industrial dispute or even if it is so, it no longer exists or is not apprehended, for instance, where it is already adjudicated or in respect of which there is an agreement or a settlement between the parties or where the industry in question is no longer in existence.

15. As I have pointed out, the parties had jointly forwarded to the Central Government a copy of the settlement dated 15th April 1969. At this stage, I may point out that the Memorandum of Settlement dated 15th April 1969 has been registered in the office of the Asstt. Labour Commissioner (C) Nagpur *vide* Dy. No. 1136, dated the 7th May 1969. Now, the Central Government should have given due consideration to the implications of this settlement before including the management of New Majri Colliery in these 2 references. In this connection, the management pressed into service MADRAS DT. AUTO & GL EMPLOYEES' UNION V. STATE OF MADRAS. (1964 II LLJ 407). It was observed in that case that where a majority of workmen of an industrial establishment have reached a settlement though such a settlement is outside the conciliation proceedings and may not be binding on workmen not parties thereto, it would be a relevant consideration for the Government to take into account in exercising their power of making a reference.

16. It was submitted by the management that in these proceedings it has transpired that there is no dispute between the management and the workers in respect of the matters mentioned in the Government's Order of Reference in view of the settlement dated 15th April 1969. It is therefore, submitted that in the circumstances this Tribunal will not be able to pass an Award and it will have to close the proceedings and report to the Government that there is no matter in dispute between the workers and the management. In this connection the management leaned heavily on Malayalam Handloom Factory Vs. State of Madras (1959 II LLJ 627). There is considerable force in this argument. It is pointed out on behalf of the management that the terms of settlement dated 15th April 1969 have been implemented and the workmen have derived benefit out of such implementation and this important circumstance should not be lost sight of.

17. It is further pointed out on behalf of the Management that since the agreement is signed in the prescribed manner as provided for in section 2(p) of the Act and a copy of it has been sent to the Government and the Conciliation officer, it becomes binding on the parties to it and comes into operation on the date it is signed or on the date which might be mentioned in it for its coming into operation. In such a case, there is no scope of any enquiry by Government as to the *bona fide* character of the settlement which becomes binding and comes into operation once it is signed in the manner provided in the rules and a copy is sent to the Government and the conciliation officer. It was urged by Shri Dhabe that settlement dated 15th April 1969 has been reached as a result of collusion between the management and the New Majri Colliery Mazdoor Congress Union and the settlement cannot be regarded as *bona fide*. But, if any dispute of the nature arises as to a settlement, that would be another industrial dispute which the Government may refer for adjudication. In this connection I may refer to SIRSILK LTD. V. GOVT. OF ANDHRA PRADESH (1963 II LLJ 647).

18. It was urged by Shri Dhabe that it does not matter whether there was any dispute in existence or apprehended in this particular colliery because, according to sub-section (5) of Section 10 of the Act, where a dispute concerning any establishment or establishments has been, or is to be referred to the Tribunal under this section and the appropriate Government is of the opinion that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the Award, include in the reference such

establishment, group or class of establishments whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments. It is submitted that in view of the aforesaid provision the Central Government had a right to include in the reference the dispute between New Majri Colliery and its workmen. In reply it was rightly pointed out by the management that the dispute has been referred by the Central Government under Section 10(1)(d) of the Act. There is nothing in the order of reference to indicate that the name of the New Majri Colliery has been included in the Reference under sub-sec. (5) of Section 10 of the Act. The Order of Reference goes to reveal that the Central Government had formed an opinion that an industrial dispute existed between the various collieries and their workmen including the New Majri Colliery. There is therefore, no material on record to indicate that the Central Government had included the New Majri Colliery in the Reference by taking recourse to the provisions contained in sub-section (5) of Section 10 of the Act.

19. The management has also relied upon the settlement dated 24th December 1970 already filed on record, reached between the management and the workmen represented by the New Majri Colliery Mazdoor Congress Union. It is not seriously disputed that the terms of this settlement also cover the issues referred for adjudication by the Central Government. Now, this settlement has been arrived at after both these references were made by the Central Government to this Tribunal for adjudication and before the passing of the Award by this Tribunal. It would, therefore, appear that this settlement dated 24th December 1970 has been made during the pendency of these proceedings. It was, however, urged on behalf of the management that it is not correct to say that the References were pending on 24th December 1970 on which day, the settlement was arrived at. In this connection, it is pointed out that my learned Predecessor Shri G. V. Deo, who was constituted an Industrial Tribunal of the Central Government for the purposes of deciding these references had gone away on transfer and there was no Notification published by the Central Government constituting me as Industrial Tribunal in place of Shri G. V. Deo. It is therefore, submitted that for this reason, it cannot be said that the References were pending at the date of the settlement. I do not find much force in this contention which is to be stated for being rejected. It is pertinent to note that even after Notification in my name was published by the Central Government, these parties have not taken any steps for moving this Tribunal to pass an Award in terms of the settlement. When a settlement is reached between the parties during the pendency of the proceedings the Tribunal has to closely examine the terms of the settlement and it may or may not give effect to the settlement. In my opinion, therefore, the settlement dated 24th December 1970 cannot be regarded as legal and valid and has to be ignored altogether.

20. But, as I have pointed out, the settlement dated 15th April 1969 is quite legal and valid. Now, when the parties arrive at a settlement law gives to it a greater sanctity than it gives to an Award and therefore, the industrial law does not contemplate any interference with the finality of a settlement and it compels the settlement to run on for the period mentioned in the settlement itself and neither party is permitted to challenge that settlement during its duration. In this connection, I may refer to POONA MAZDOOR SABHA V. DHUTIA AND ANR. (1956 II LLJ 319).

21. There is another aspect of the matter which has to be taken into consideration. In this case, it is pertinent to note that the strike notice was not served by MAHARASHTRA PRADESH Rashtriya Koyalak Khadan Kamgar Sangh, Nagpur, directly on the Management of the New Majri Colliery. It was received by

the Management only as an Annexure to the letter dated 24th July, 1968, Ex. E-3 addressed by the Assistant Labour Commissioner (C) Nagpur. So, this is a case where the Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh, Nagpur, had made a demand to the Government directly without rising a dispute directly with the employer. So, it cannot become an industrial dispute. In this connection, the Management pressed into service the Decision of the Supreme Court in SINDHU RESETTLEMENT CORPORATION LTD. V. INDUSTRIAL TRIBUNAL GUJRAT (1968 I LLJ 834). This decision of the Supreme Court was followed and further clarified by the High Court of Delhi in FEDDERS LLOYD CORPORATION (PVT.) LTD. UNION OF INDIA (1970 Lab. I.C.421). It was ruled that demand by workmen must be raised first on Management and rejected by them before industrial dispute can be said to arise and exist. Making of such demand to Conciliation Officer and its communication by him to Management who reject the same is not sufficient to constitute industrial dispute. On this ground also, the references made by the Government must be regarded as incompetent and without jurisdiction.

22. Now, the only point surviving for consideration is whether the Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh, Nagpur has, in law, a right to represent the workmen of the New Majri Colliery. Now, it has been proved beyond any shadow of doubt that this Union has absolutely no membership in the New Majri Colliery. This union has not examined any witness and has not filed any scrap of paper to prove that any workman this colliery is a member of that Union. Now, Section 36 of the Industrial Disputes Act, 1947 deals with the representation of parties. It may be useful to reproduce sub-section (1) of Section 36 *Ibid* which runs as under:—

"36. (1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

- an officer of a registered trade union of which he is a member;
- an officer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;
- where the worker is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed."

Now, clause (a) of Section 36(1) is not attracted because, this Union has no membership among the workmen of the New Majri Colliery. Clause (b) is also not applicable because, the New Majri Colliery Mazdoor Congress Union which is the sole representative of the workmen of the New Majri Colliery, is not affiliated to the Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh, Nagpur. Clause (c) also does not come into play because all the workmen of the New Majri Colliery are members of the New Majri Colliery Mazdoor Congress Union. That clause would apply only when a worker is not a member of any trade union. There is, therefore, considerable force in the contention of the management that Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar Sangh, has no right to represent the workers of this colliery. In addition it is pointed out on behalf of the Management that the said Union has also failed to file an authority in Form 'F' as prescribed by Rule 36 of the Industrial Disputes (Central) Rules, 1957. The said rule provides that the authority in favour of a person or persons to represent a workman or group of workmen or an employer in any proceeding under the Act shall be in Form 'F'. On this ground also, the Maharashtra Pradesh Rashtriya Koyalak Khadan Kamgar

Sangh has no right to represent the workmen from New Majri Colliery. I find accordingly.

23. For the above mentioned reasons I am of the opinion that both these references, in so far as the alleged dispute between the Management of New Majri Colliery and its Workmen is concerned, made by the Central Government are incompetent and without jurisdiction and this Court is not able to pass any award because, there is no matter in dispute between the workers and the Management of this Colliery. The Tribunal has, therefore, to close the proceedings and make such a report to the Government.

NAGPUR:

Dated 8th February, 1972.

(Sd.) W. K. ALMELKAR, Presiding Officer.

[No. 1/10/68-LRII.]

New Delhi, the 30th March 1972

S.O. 954.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 1), Dhanbad, in the industrial dispute between the employers in relation to the management of Jeetpur Colliery and Chasnala Colliery of Messrs Indian Iron and Steel Company Limited, Post Office Patherdih, District Dhanbad, and their workmen, which was received by the Central Government on the 28th March, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD.

REFERENCE NO. 22 OF 1971

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the managements of Jeetpur Colliery and Chasnala Colliery of Messers Indian Iron and Steel Company Ltd., Post Office Patherdih, District Dhanbad.

AND

Their Workmen.

PRESENT:

Shri A. C. Sen, Presiding Officer.

APPEARANCES:

For the Employers:

Shri K. K. Paul, Personnel Officer.

For the Workmen:

Shri B. Lal, Advocate.

STATE: Bihar. INDUSTRY: Coal.
Dhanbad, dated the 18th March, 1972.

AWARD

The present reference arises out of Order No. L/2012/62-71-LRII dated New Delhi, the 14th July, 1971 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows:

"Whether the demand of Indian National Mines Overman, Sirdar and Shot-firers' Association Post Office Chirkunda, Dhanbad, regarding initial higher starting pay at the rate of two and three increments respectively to the Mining Sirdar, Overman and Senior Overman appointed after the 28th October, 1968 by the managements of Jeetpur Colliery and Chasnala Colliery of Messers Indian Iron

and Steel Company Limited, Post Office Patherdih District Dhanbad, is justified? If so, to what relief are these workmen entitled?"

2. It has been stated in paragraph 2 of the written statement submitted by the employers that no dispute relating to matters specified in the schedule of the reference having earlier been raised by the Union with the Management, the present reference is not maintainable. Shri K. K. Paul appearing on behalf of the management relies on the decision of the Supreme Court in Sindhu Resettlement Corporation Ltd. versus Industrial Tribunal, Gujarat reported in A.I.R. 1968 (S.C.) 529 in support of the preliminary objection taken in paragraph 2 of the written statement. In my opinion the case of the Sindhu Resettlement Corporation Ltd., reported in A.I.R. 1968 (S.C.) 529 is distinguishable on facts. In the present case, it transpires, the charter of demand was presented by the workmen to the Asstt. Labour Commissioner (C), Dhanbad. A copy of this demand was sent by the Asstt. Labour Commissioner (C), Dhanbad to the management. The management submitted its comments *vide* its letter No. KRD/RR/38/122 dated 3rd February, 1971 and further comments on the union's rejoinder dated 25th February, 1971 by its letter No. KRD/RR/38/253 dated 10th March, 1971. The dispute involved in the present reference is identical with the dispute raised by the workmen in the charter of demands submitted to the Asstt. Labour Commissioner (C), Dhanbad, therefore, it transpires that the management was fully aware of the nature of the demand made by the workmen. The management also submitted their objection to the demand to the Asstt. Labour Commissioner (C), Dhanbad. According to the latest decision of the Patna High Court (unreported) in C. W. J. Case No. 1513 of 1969 (Managing Contractor versus The Presiding Officer), an industrial dispute can be raised by presenting a charter of demand to the Asstt. Labour Commissioner. If a copy of the said charter of demand is forwarded by the Asstt. Labour Commissioner to the management then, in the opinion of the Patna High Court, the dispute is raised by the workmen through the Asstt. Labour Commissioner. The Patna High Court arrived at the above decision after a due consideration of the decision of the Supreme Court in the case Sindhu Resettlement Corporation Ltd., reported in A.I.R. 1968 (SC) 529. I am bound by the decision of the Patna High Court especially when the said decision has been given after a due consideration of the Supreme Court decision relied on by the management in the present case. I, therefore, hold that there is no substance in the preliminary objection raised by the management.

3. On merits I am bound to hold that the demand of the Indian National Mines Overman, Shotfirers' Association, Dhanbad regarding initial higher starting pay at the rate of two and three increments respectively to the Mining Sirdar, Overman and Senior Overman appointed after the 28th October, 1968 is perfectly justified. I shall presently show why the demand is justified.

4. Subsequent to the implementation of the Wage Board Recommendations the Indian National Overman, Sirdar and Shotfirers' Association functioning in M/s. Andrew Yule & Co. Ltd., raised disputes with the respective managements to the effect that the Wage Board had not been fair to the members of the Association in that they had not been given proportionate increase in their remunerations as compared to other skilled workmen. Even though the management of those concerns did not agree with their contentions, with a view to maintain good relations with the existing mining staff, they entered into an agreement whereby it was settled that the management would give some increments to the mining sirdars, overman and shotfirers on their rolls.

5. After the settlement was arrived at in respect of the said companies, the Association served a notice of strike on the Ramnagar and Chasnala Collieries belonging to M/s. Indian Iron & Steel Co., demanding special increments in the existing salary of the overman, mining sirdars and shotfirers. An agreement was arrived at before the Regional Labour Commissioner (C), Asansol between the contending parties. In respect of Ramnagar and Chasnala Colliery the management agreed to give increments to overman, mining sirdars and shotfirers in accordance with the agreement arrived at between the Association and the various collieries of Andrew Yule & Co. Ltd., the relevant portion of the minutes of discussion held by the Regional Labour Commissioner (C), Asansol with the representatives of the management of Ramnagar and Chasnala Colliery of M/s. Indian Iron & Steel Co. Ltd., and the representative of the Indian National Mines Overman and Shotfirers Association is quoted below:

"Shri S. K. Banerjee, Manager, Ramnagore Colliery and representative of M/s. Indian Iron and Steel Co. Ltd., stated that the management would give increments to the Head Overman, Overman, Mining Sirdars and Shotfirers at Ramnagore Colliery and Chasnala Colliery on the lines granted by the management of Bengal Coal Co. Ltd., and M/s. Bird & Co. Ltd."

These minutes were signed by the representative of the management and of the Association.

6. It is contended by Shri Paul on behalf of the management that this settlement only relates to workmen who were already on the rolls. His further contention is that the instant claim of the Association is unfounded as it was nowhere agreed either by the management of Bengal Coal Co., or Bird Co. Ltd., that additional increments were to be given to new entrants also. His further argument is that the increments were allowed to the existing staff only in consideration of their long services in the company and the disparity in the proportionate increase to their existing remunerations in relation to other skilled workmen and that the agreement never envisaged nor was intended to be applicable to new entrants and as such the mining sirdars overmen and senior overman appointed or to be appointed after 28th October 1968 are not entitled to any increments.

7. The present demand submitted by the Association is really not based on the agreement between the Association and the Bengal Coal Co. Ltd., or Bird & Co. Ltd. It is contended on behalf of the Association that principles on which the aforesaid agreement are based justify increments to new entrants as well appointed after 28th October 1968.

8. The agreement between the Association and the management regarding additional increment to mining sirdars, overmen and shotfirers took place on 28th October, 1968 on the basis of the agreement between the management of M/s. Andrew Yule & Co. Ltd., and the Association dated 12th March 1968. By the settlement on 28th October 1968 the Indian Iron and Steel Co. Ltd., accepted the terms of the settlement between the Andrew Yule & Co., and the Association dated 12th March 1968. The terms of the settlement as per agreement dated 12th March 1968 are as follows:

(1) Mining Sirdars who are getting Rs. 226/- basic per month and below be given 2 increments.

- (2) Overmen who are getting
 - (a) between Rs. 245/- to Rs. 285/- basic—3 increments.
 - (b) between Rs. 295/- to Rs. 305/- basic—2 increments.
 - (c) between Rs. 315/- to Rs. 320/- basic—1 increment.
- (3) Head overmen who are getting
 - (a) between Rs. 305/- to Rs. 320/- basic—3 increments.
 - (b) Getting Rs. 335/- basic—2 increments.
 - (c) Getting Rs. 350/- and above basic—1 increment."

Term No. 1 provide that even the mining sirdars getting Rs. 226/- basic and below are entitled to get 2 increments. A mining sirdar getting Rs. 226/- basic on 12th March 1968 must necessarily be a junior men; therefore, it transpires that according to the agreement even a junior man was entitled to two increments. Similarly in the case of overmen, the junior most overman drawing a basic salary is 245/- was entitled to three increments. Similarly in the case of head overman, the junior most overman on the relevant date drawing basic salary of Rs. 305/- was entitled to three increments. That being the position there is no reason why mining sirdars, overmen and head overmen who will be appointed immediately after 28th October 1968 should not get two increments or three increments as the case may be.

9. Mr. B. Lal appearing on behalf of the Association has given the following illustration. If a man is appointed as mining sirdar on 28th October, 1968 he is entitled to two increments whereas if the present demand of the Association is not accepted an overman who will be appointed on the very next day, that is, 29th October 1968 will be denied those two increments. This, he says, will be an act of glaring discrimination. In my opinion there is much force in argument advanced by Shri Lal.

10. For the reasons stated above I hold that the demand of the Indian National Mines Overman, Sirdar and Shotfirers Association regarding initial higher starting pay at the rate of two or three special increments respectively to the Mining Sirdar, Overman and Senior Overman appointed after the 28th October, 1968 is fully justified and I award accordingly. Let a copy of this award be forwarded to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) A. C. SEN,
Presiding Officer.

[No. L/2012/62/71-LRII.]

New Delhi, the 1st April 1972

S.O. 955.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 1), Dhanbad, in the industrial dispute between the employers in relation to the management of North Keshalpur Colliery of Messrs North Keshalpur Colliery Company Private Limited, Post Office Katrasgarh, District Dhanbad, and their workmen, which was received by the Central Government on the 28th March, 1972.

BEORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 54 OF 1971

PARTIES:

Employers in relation to the management of North Keshapur Colliery of Messrs North Keshalpur Colliery Company Private Limited, Post Office Katrasgarh, Dist. Dhanbad.

AND

Their Workmen

PRESENT:

Shri A. C. Sen, Presidinng Officer.

APPEARANCES:

For the Employers.—Shri B. Lal, Advocate.

For the Workmen.—Shri P. Choudhary, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 21st March 1972

AWARD

The present reference arises out of Order No. I/2012/29/71-LRII dated New Delhi, the 7th September, 1971 passed by the Central Government in respect of an industrial dispute between the parties above mentioned. The subject matter of the dispute has been set out in the schedule to the order and the schedule runs thus:

"Whether the stoppage of work of Shri Gokul Karmaker, Fitter, with effect from the 4th November, 1970 by the management of North Keshalpur Colliery of Moessrs North Keshalpur Colliery Company Private Limited, Post Offce Katrasgarh, District Dhanbad is an act of victimisation for his trade union activities? If so, to what relief is the workman entitled to?"

2. The case for the workmen as set out in their written statement submitted on 8th October, 1971 may be summarised as follows. The concerned workman Gokul Karmaker was at the relevant time a permanent fitter at North Keshalpur Colliery and he had been continuously there for more than five years with unblemished record. In 1970, a branch of the Colliery Mazdoor Sangh was formed at North Keshalpur Colliery and the concerned workman took active part in the formation of the said branch of the Sangh and in getting other workmen enrolled as a member of the Sangh. The Sangh became an eye sore to the management. The management unleashed a reign of terror by employing lathials and by instituting false cases against the workmen to intimidate and dissuade them from joining the Sangh. The management started systematic victimisation of all the active trade union workers. Having failed in their attempt to dissuade Gokul Karmakar from his trade union activities the management stopped him from work without any reason whatsoever.

3. A preliminary objection was filed on behalf of the employer on 5th November, 1971. In para 3 of the said preliminary objection it has been stated that neither the workman nor the Colliery Mazdoor Sangh ever raised any demand regarding the alleged stoppage of work of Shri Gokul Karmakar, Fitter with effect from the 4th November, 1970 by the management of North Keshalpur Colliery. In para 4 it has been stated that neither the workman Gokul Karmaker nor the Colliery Mazdoor Sangh ever raised even before the Assistant Labour Commissioner (C), (Conciliation Officer), Dhanbad any dispute to the effect that the workman concerned was stopped from 4th November, 1970. It has been pointed out in para 5 of the preliminary objection that the Secretary,

Sidhcshwar Prasad Singh, M.L.A. of the Colliery Mazdoor Sangh in his letter dated 24th November, 1970 addressed to the Assistant Labour Commissioner (C), Dhanbad alleged that the workman concerned was stopped from 20th November, 1970 and not from 4th November, 1970.

4. In para 7 of the preliminary objection it has been stated that the workman concerned voluntarily resigned on and from 4th November 1970 for the reasons mentioned in his resignation letter.

5. I expressed my desire by my order dated 18th January 1972 to hear the case not only on the preliminary objection but also on merits. I accordingly directed the employer to file additional written statement in relation to the merits of the case.

6. An additional written statement-cum-rejoinder was filed by the employer on 25th January 1972. The allegations by the workmen that the concerned workman was a permanent fitter with five years service with unblemished record, that a branch of the Colliery Mazdoor Sangh was formed in 1970 at North Keshalpur Colliery, that the concerned workman took an active part in the formation of the said branch of the Sangh and that the management unleashed a reign of terror—have all been denied by the employer in his additional written statement.

7. In para 10 of the additional written statement the employer has pointed out that the workman could not specify even in their written statement the alleged date of his stoppage from work. The employer has asserted in para 12 of the additional written statement that workmen never raised a demand that the concerned workman was stopped from 4th November 1970. He has reiterated in para 13 of the additional written statement that the concerned workman resigned voluntarily from 4th November 1970 and that his resignation was duly accepted by the employer. The allegation of victimisation has been denied in para 17 of the additional written statement.

8. The workmen filed their rejoinder on 15th March 1972. In para 1 of the rejoinder it has been stated that the preliminary objection is untenable, that the workman concerned was stopped from work from 4th November 1970 and that he made a demand by his letter dated 11th November 1970 to the management for reinstatement. In para 2 of the rejoinder it has been asserted that the present dispute was raised by the union, Colliery Mazdoor Sangh.

9. In para 4 of the workmen's rejoinder a reference has been made to a complaint petition, being C. P. Case No. 24 of 1971 before the S.D. Baghmara filed by Shri Tarachand Sachdeva, one of the Directors of the employer company, who verified the additional written statement of the employer. In that complaint petition it was stated, say the workmen, that the concerned workman along with others was trying to form a union in the Colliery. According to the workmen, in view of the solemn declaration in the said complaint case, the denial of the knowledge of the trade union activities of the concerned workman is *prima facie* false and a blatant act of suppression of facts.

10. In para eight of the rejoinder it has been stated by the workmen that the workman concerned requested the management to allow him to join his duty.

11. As to the letter of resignation, which, according to the employer was submitted by the concerned workman on 4th November, 1970, the workmen have stated thus in para 9 of their rejoinder: "The suggestion that Shri Gokul Karmakar resigned voluntarily is false and absurd. Actually the management takes thumb impression and signatures of the workers at the time of appointment and also later on forcibly. It has manufactured the alleged resignation letter to get rid of the workmen for his trad- union activitites".

12. It has been stated in para 10 of the rejoinder that the alleged resignation is a forged document and that the workman challenged the same all along.

13. In my opinion the case primarily hinges upon the letter of resignation. If it is found that the letter of resignation is genuine, it will not be necessary for me to discuss the maintainability of the preliminary objection taken by the employer.

14. The letter of resignation has been marked as Ext. M1. It is dated 4th November, 1970. The witness no. 1 for the management, Shri Tarachand Sachadev has said as follows in his examination in chief, regarding the letter of resignation: "I am acquainted with the signature of Shri Gokul Karmakar. This is the signature of Shri Gokul Karmakar on the letter dated 4th November, 1970. He brought this letter to me himself. Marked Ext. M1. He resigned from service. His resignation was accepted by the management. This is my hand-writing on Ext. M1. This is my signature on Ext. M1. This is the signature of M. R. Mehta on Ext. M1. Marked Ext. M1(a)". The only suggestion made to him in cross-examination was that the letter of resignation was manufactured after the dispute had been raised before the Regional Labour Commissioner (C), Dhanbad and the suggestion was denied by the witness.

15. The witness No. 1 for the workmen is the concerned workman. He has stated in his examination in chief that he did not resign from the colliery, that he did not ask Shri Mahendra to write his letter of resignation, that he never gave resignation letter to Tara Babu (M.W.1) and that he did not resign from his service. In his cross-examination he admitted that the signature on Ext. M1, the letter of resignation, purporting to be his signature appeared like his signature. He has not said in his examination in chief that he was compelled to put his signature on any blank papers either at the time of his appointment or subsequently. He has admitted in his cross-examination that he did not write to the management that the signatures of workmen were taken by the officials of the employer company forcibly.

16. It appears that as far back as 12th January, 1971 the original letter of resignation submitted by the concerned workman was produced before the Asstt. Labour Commissioner (C), Dhanbad (vide Ext. M3). There is an endorsement to the following effect on Ext. M3: "Original letter of Shri Gokul Karmakar is received for the "reference". Ext. M3 is a letter dated 12th January 1971 addressed to the Asstt. Labour Commissioner (C), Dhanbad enclosing therewith a true copy of the letter of resignation dated 4th November 1970. It may therefore be inferred that the workman concerned was aware of the stand taken by the employer as to why he was stopped from work from 4th November 1970. This is also clear from the letter dated 19th April 1971 written by Shri R. N. Sharma, M.P., Vice-President, Colliery Mazdoor Sangh to the Chief Labour Commissioner (C), New Delhi. The relevant portion of the letter runs thus: "It (union) specifically told to the Assistant Labour Commissioner (C), (V) that he (workman concerned) has not at all resigned from his service on his own accord and any paper showing him to have resigned from his service is false and fabricated and cannot be relied on. During the course of the conciliation the workman himself presented his case before the Asstt. Labour Commissioner (C) and vehemently protested on the same line as his union".

17. It is clear from what has been stated above that the workman concerned as well as the union knew long before the filing of the written statement on behalf of the workmen that the employer relied on the letter of resignation dated 4th November 1970 in support of the action taken against the workman concerned. But strangely enough, there is not a whisper about the letter of resignation or about its being a

forgery in the written statement filed on 8th October 1971. Again, it is the case of the workmen that the letter of resignation is a forgery, Onus heavily lies on them that it is a forgery. In my opinion they have not been able to discharge the onus. As to oral evidence on the letter of resignation I am inclined to accept the testimony of the witness No. 1 for the management rather than that of the witness no. 1 for the workmen. That W.W.1 is not a truthful witness will be evident from the following fact. The workmen have filed a letter dated 11th November 1970 written by the concerned workman to the Manager of North Keshalpur Colliery, which has been marked as Ext. W3. This appears to be the original letter written by the workman concerned to the Manager. The workmen have also filed a certificate of posting which shows that on 11th November 1970 some postal article was sent to the Manager, North Keshalpur Colliery. The column meant for describing the class of articles has not been filled up.

18. W.W.1 has stated in his deposition that Ext. W3 was sent by him to the Manager under certificate of posting, that it was signed by him on 11th November 1970, that it was given to the colliery Manager and that this letter might have come from the colliery. This letter dated 11th November 1970 was marked as an exhibit at the instance of the workmen and that it was produced by the workmen. No attempt has been made to explain how this letter Ext. W3 sent to the Manager of the colliery came into the possession of the workman. It has however been stated by W.W.1 that this letter might have come from the colliery. I have not the slightest doubt in my mind that the entire story regarding Ext. W3 has been fabricated by W.W.1. I am not inclined to place much reliance on the testimony of such an untrustworthy witness.

19. The above discussion compels me to conclude that the letter of resignation dated 4th November 1970, marked as Ext. M1 is a genuine document and that the workman concerned having tendered resignation from service, it cannot be said that he was stopped from work with effect from the 4th November, 1970 by way of victimisation for his trade union activities. Moreover the only evidence of his trade union activities is the petition of complaint registered as C.P. Case No. 24 of 1971, marked as Ext. W1. This petition of complaint was filed as a counterblast to the information lodged by the accused persons on an earlier date. The witness No. 1 for the workmen has not said a word about Ext. W1. Moreover, the petition of complaint was filed on 22nd March 1971, whereas the workmen concerned ceased to work from 4th November 1970. Ext. W1 can by no means be taken as an admission by the Director of the employer company that the workman concerned was stopped from work on account of his trade union activities. I am not prepared to attach any importance to Ext. W1.

20. I accordingly award that the stoppage of work of Shri Gokul Karmakar, Fitter, with effect from the 4th November, 1970 is not an act of victimisation for his trade union activities, that such stoppage is the result of resignation from service tendered by the concerned workman and that he is not entitled to any relief.

21. A copy of this award may kindly be forwarded to the Central Government as required under section 15 of the Industrial Disputes Act, 1947.

(Sd.) A. C. SEN,
Presiding Officer.

[No. L/2012/29/71-LRU.]

S.O. 956.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Management of Messers B. Patnaik Mines (Private) Limited, Barbil and their workmen, which was received by the Central Government on the 24th March 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 51 of 1971

In the matter of an industrial dispute under S. 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the management of Messers B. Patnaik Mines (Private) Limited, Barbil.

AND

Their workmen.

APPEARANCES:

On behalf of the employers.—None.

On behalf of the workmen.—None.

STATE: Orissa.

INDUSTRY: Iron.

Dhanbad, 18th March, 1972

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Messers B. Patnaik Mines (Private) Limited, Barbil and their workmen, by its order No. 12/8/70-LRIV dated 28th April, 1971 referred to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the termination of services of Smt. Sabita Kachhap, Creche-Nurse in the Barpada Iron Mines by the management of Messers B. Patnaik Mines (Private) Limited, with effect from the 31st August, 1969 is justified? If not, to what relief is Smt. Sabita Kachhap entitled?"

2. Today also no party is present. On the 24th January 1972 a letter was received signed by the affected workman and the Administrative Officer of the employers company accompanied by a memorandum of settlement stating that the workman shall be given all the benefits including the compensation till the date of his termination and that termination of service of the affected workman should be confirmed. The memorandum of settlement could not be verified as no party appeared. The parties being absent on two successive hearings it appears probable that the dispute has been settled. The reference is disposed of as settled and the award is made accordingly and submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) VENKATA RAO,
Presiding Officer,

Central Government Industrial Tribunal,

(No. 2) Dhanbad

[No. 12(8)/70-LR-IV]

BALWANT SINGH, Under Secy

(Department of Labour and Employment)

New Delhi, the 4th April 1972

S.O. 957.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Goenka Kajora Colliery, Post Office Ukhra, District Burdwan and their workmen, which was received by the Central Government on the 30th March, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 61 of 1971

PARTIES:

Employers in relation to the management of Goenka Kajora Colliery,

AND

Their workmen.

PRESENT:

Sri S. N. Bagchi, Presiding Officer.

APPEARANCES:

On behalf of Employers

Sri S. N. Mishra, Personnel Officer.

On behalf of Workmen

Sri B. S. Azad, General Secretary, Khan Shramik Congress.

STATE: West Bengal.

INDUSTRY: Coal Mine.

AWARD

The Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), vide Order No. L-1912 (12)/71-LR.II., dated 22nd April, 1971, referred an industrial dispute existing between the employers in relation to the management of Goenka Kajora Colliery and their workmen, for adjudication, to this Tribunal, namely:—

"Whether the management of Goenka Kajora Colliery, Post Office Ukhra, District Burdwan was justified in stopping from work Shri Ram Kisun Mistry-Carpenter with effect from 3rd September, 1970? If not, to what relief the workman is entitled?"

2. When the matter was taken up for hearing to-day, Sri Azad for the union submits that he could not find out the address of the workman from his Union office. On the last date he submitted that he had sent telegram and registered letter to the address of the workman at his native place but could not get any reply. To-day he submits that he could not get any address from the records of the union and the witness who could be produced was not available due to illness of his son. When the workman himself who is aggrieved does not come forward before this Tribunal knowing that the matter is fixed for adjudication, the tribunal cannot wait in the circumstances of the present case, for an indefinite period. Sri Azad representing the workman for the union submits that he is not in a position to produce the workman who is vitally interested in the adjudication of the reference. Any other witness can have no direct knowledge as to what the grievance of the workman is.

3. The management is ready. From the side of the management, the Personnel officer submits that the workman was never employed in any capacity at any time by the colliery concern. Sri Azad says that he has no paper with him to show that the workman ever worked in the colliery.

4. In the circumstances of the present case, the workman's dispute cannot be considered as an industrial dispute under Sec. 2(k) of the Industrial Disputes Act and as such this Tribunal has no jurisdiction to entertain and adjudicate upon the dispute. The Reference is, therefore, rejected.

This is my award.

Dated March 25, 1972

(Sd.) S. N. BAGCHI,
Presiding Officer.
[No. L/1912/12/71-LRII.]

New Delhi, the 6th April 1972

S.O. 958.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Methani Colliery (Bejdih Unit) of Messrs Equitable Coal Company Limited, Post Office Sitarampur, District Burdwan and their workmen, which was received by the Central Government on the 3rd April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE NO. 81 OF 1971

PARTIES:

Employers in relation to the management of Methani Colliery (Bejdih Unit) of Messrs Equitable Coal Company Limited.

AND

Their workmen

PRESENT:

Sri S. N. Bagchi, Presiding Officer.

APPEARANCES:

On behalf of Employers.—Shri H. R. Das Gupta, Personnel Officer.

On behalf of Workmen.—Sri Nandlal Pandey, Branch Secretary, Colliery Mazdoor Congress (HMP), Mithani Unit.

STATE: West Bengal

INDUSTRY: Coal Mines.

AWARD

The Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), vide Order No. L-1912/41/71-LRII, dated 29th May, 1971, referred an industrial dispute existing between the employers in relation to the management of Methani Colliery (Bejdih Unit) of Messrs Equitable Coal Company Limited and their workmen, to this Tribunal, for adjudication, namely:—

"Whether the action of the management of Methani Colliery (Bejdih Unit) of Messrs Equitable Coal Company Limited, Post Office Sitarampur, District Burdwan in retiring Shri Jagan Pandey, Guard with effect from the 1st August, 1970 is justified? If not, to what relief is the workman entitled?"

2. The only question whether the action of the management of Methani Colliery, a unit of Messrs Equitable Coal Company Limited, P.O. Sitarampur, District Burdwan, in retiring Sri Jagan Pandey, Guard, with effect from 1st August, 1970 is justified and if not what relief is the workman entitled. The statement filed by the union on behalf of the workman contains *inter alia* that the management forced the workman to retire from service with effect from 1st August, 1970 prematurely before he had attained the age of 60 years. In paragraph 11 the union states that

in the circumstances it is implored that the Hon'ble Tribunal be graciously pleased to reinstate the workman in his service with payment of wages, allowances, etc. retrospectively from the date the workman is on forced retirement.

3. The management stated that having regard to the entries made in service record Card under the statutory form B relating to the age of the workman, which was accepted by the workman to be correct, the workman completed the age of 60 years in 1969 but was allowed to continue in the post of a Guard in the colliery upto 1st August, 1970. The management, therefore, asserts that in accordance with a tripartite settlement arrived at on 27th November, 1968 before the Regional Labour Commissioner (Central), Asansol, the age of superannuation of workmen of the company was fixed at 60 years. It was further stipulated therein that the workman would receive monthly pension for life or in the alternative a lumpsum *ex-gratia* payment at the option of the workman concerned. It is further stated by the company that in accordance with the said tripartite settlement the workman was intimated by a letter dated 13th December, 1969 that he would retire from 1st January, 1970 and was asked to exercise his option in respect of pension/*ex-gratia* payment. The management reiterated in paragraph 8 of the statement that the workman concerned gave the declaration in respect of his age in the record of Provident fund and in form B register. The management asserted that the workman was asked to retire and retired after attaining of his age of 60 years fixed as his superannuation age in terms of the tripartite settlement. So, the management asserted that there was no cause for the dispute as raised and referred to for adjudication.

4. Be that as it may, the undeniable fact is that on 6th June, 1971 the workman expired. For the management Sri Das Gupta, along with a petition, has annexed three letters in Hindi bearing official official seals of Sarpanch, and with reference to those documents Sri Das Gupta has stated in the application for the employer that he had received communications from the son of the workman, attached along with the application, that the workman expired on 6th June, 1971. On the death of the workman the union ceases to have any right to represent the workman before this Tribunal. The union official representing the dead workman admits that the workman died on 6th June, 1971.

5. The contract of service between the employer and the employees, I mean the management and the workman, now dead, is a personal contract parties when be enforceable between the contracting parties when both are alive. With the death of either of the contracting parties, the personal contract of service ceases and does not survive to the legal heirs or representative of the contracting parties. This being the undeniable position in law, the principles of such law are aptly applicable in cases under the industrial jurisprudence. The union has clearly asked that the workman should be reinstated and on reinstatement his back wages, etc., should be paid as he was forced to retire. Now, the workman has retired for good from the world on 6th June, 1971. So his contract of service has ceased to exist and does not survive to his legal representative. Accordingly, there can be no question for this Tribunal to adjudicate, either on the management's action ordering retirement of the workman, or on the workman's right to be reinstated to the post, to continue till the age of retirement i.e. 60 years and to get from the date of reinstatement till the date of award wages and other emoluments. This being the gravamen of the dispute, the death of the workman, on 6th June, 1971, during the pendency of this adjudication proceedings has made the dispute as one, which is not an "industrial dispute" at present. and the tribunal has ceased to have any jurisdiction to adjudicate when there is no industrial dispute

before it. There is no question of the workman's heir's or successor's getting any monetary benefit otherwise than beyond the terms of the present reference which pertains to and pivot upon the contract of personal service in between the management and the workman. If the workman's legal heirs feel that they are entitled to certain remedies under the law, such remedies may, if law permits, be made available before the Civil Court of competent jurisdiction, but the reference as it stands, in the circumstances revealed above, ceases to be an industrial dispute and this tribunal ceases to have any jurisdiction to adjudicate as the dispute under reference has become non-existent.

This is my award.

(Sd.) S. N. BAGCHI,
Presiding Officer.

[No. L/1912/41/71-LRI]

S.O. 959.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Kottadih Colliery of Messrs Equitable Coal Company Limited, Post Office Kottadih, District Burdwan and their workmen, which was received by the Central Government on the 3rd April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 128 OF 1971

PARTIES:

Employers in relation to the management of Kottadih Colliery.

AND

Their workmen.

PRESENT:

Sri S. N. Bagchi, Presiding Officer.

APPEARANCES:

On behalf of Employers.—Absent.

On behalf of Workmen.—Absent.

STATE: West Bengal

INDUSTRY: Coal Mines.

AWARD

By Order No. L/1912/109/71-LRII, dated 13th December, 1971, the Government of India, in the Ministry of Labour and Rehabilitation (Department of Labour and Employment), referred an industrial dispute between the employers in relation to the management of Kottadih Colliery and their workmen, to this Tribunal for adjudication, namely:—

"Whether the management of Kottadih Colliery of Messrs Equitable Coal Company Limited, Post Office Kottadih, District Burdwan are justified in not placing Shri Puna Tanti, Machine Mazdoor-cum-Driller in Category-V, as machine Driver with effect from the 1st January, 1971, Shri Ram Gopal Choubay as Body Searcher in Category-II with effect from the 20th March, 1969 and Shri Lakhu Muchi as Winding Engine Driver in Category-V, with effect from the 1st January, 1971? If not, to what relief are the workmen entitled?"

2. On receipt of the reference by this tribunal it was registered and notices were sent to the parties for submission of written statement on 28th December,

1971. None of the parties submitted any written statement until February 23, 1972, when the management filed an application along with two copies of one memorandum of settlement which is said to have been signed on 1st November 1971, i.e. before the date of issuing the Order of reference by the Government, which is 13th December 1971. The settlement however was entered into when there was no conciliation proceedings pending. The matter was, therefore, fixed for recording the said settlement on 15th March 1972 when representatives of both the parties appeared. The following order was made on that date:

"Sri H. R. Das Gupta, Personnel Officer appears to represent the management and Sri Jagadish Singh, Asstt. Secretary, Colliery Mazdoor Congress appears on behalf of the workmen.

In view of the Supreme Court decision reported in 1972 I LLJ 99 (Workmen of Delhi Cloth and General Mills Ltd. and Delhi Cloth and General Mills Ltd.), this Tribunal cannot take any notice of the alleged agreement between the parties when the agreement was entered into otherwise than in a conciliation proceeding. The parties if desire may file the agreement before this Tribunal for proper adjudication."

Fix to-morrow (16-3-72) for action.

On 16th March, 1972, i.e. the following date the following orders were passed:

"Nobody appears on either side, though directed to do so positively yesterday when both sides were present.

Let the matter be fixed for disposal on 27th March 1972 or any other order/orders as this Tribunal deems fit and proper.

Inform parties."

3. To-day when the matter was called out, none appears for either side to contest the case. Therefore, there is no dispute over the matter between the contesting parties and as such a "no dispute" award is passed in the matter.

This is my award.

(Sd.) S. N. BAGCHI,
Presiding Officer.

[No. L/1912/109/71-LRII.]

S.O. 960. In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2) Dhanbad, in the industrial dispute between the employers in relation to the management of South Govindpur Colliery, Post Office Katrasgarh, District Dhanbad, and their workmen, which was received by the Central Government on the 1st April 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 3 of 1971.

In the matter of an industrial dispute under S.10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the management of South Govindpur Colliery, Post Office Katrasgarh, District Dhanbad.

AND

Their workmen.

APPEARANCES:

On behalf of the employers.—Shri S. S. Mukherjee, Advocate.

On behalf of the workmen.—Shri J. D. Lal, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of South Govindpur colliery, Post Office Katrasgarh, District Dhanbad and their workmen, by its order No. 2/163/70-L-HII, dated 10th December, 1970 referred to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the action of the management of South Govindpur colliery, post office Katrasgarh, district Dhanbad in stopping the following workmen from their work from the dates mentioned against their names is justified? If not, to what relief are the workmen entitled?"

Sl. No.	Name	Designation	Date of stoppage of work
1.	Jalaluddin Mian	Timber Mistry	8-12-1969
2.	Ali Mohammed	Timber Mazdoor	27-11-1969
3.	Sulema Mian	Timber Mistry	27-11-1969
4.	Jamminuddin Mian	Timber Mazdoor	27-11-1969
5.	Mohiuddin Mian	Timber Mistry	8-11-1969

2. The workmen as well as the employers filed their statements or demands. The employers also filed rejoinder to the statement of the workmen.

3. The case of the workmen is that five workmen mentioned in the Reference were employees of South Govindpur Colliery. Workmen 2 and 3 were timber mazdoors while the remaining 3, according to the Reference, were timber mistryes. The employers have stated in their rejoinder that the affected workman 5 was not a timber mistry but he was a timber mazdoor. This difference in the designation of workman 5 is not of consequence for the present case. All the five workmen submitted a joint representation to the Assistant Labour Commissioner (C) (V) Dhanbad raising an industrial dispute under S. 2 A of the Industrial Disputes Act, complaining that they were stopped from work by the management of the colliery arbitrarily. The conciliation having failed the Government of India made the Reference to this Tribunal under S.10(1)(d) of the Industrial Disputes Act. The case of the workmen is that the management of the colliery all on a sudden without any valid reason illegally stopped the workmen from work from the dates mentioned against each of their names in the schedule of Reference. It is also pleaded by the workmen that subsequently the workmen on several occasions approached the management to permit them to resume their duties but it was of no avail. According to the statement of the employers the workmen had submitted their resignations on different dates, which were accepted by the management and the workmen voluntarily received their full and final payment and left the colliery. The reason pointed out by the employers for resignation of the workmen is that the workmen were engaged in 9 seam 2 Pit, that the roof condition of the top section was somewhat bad in patches and needed the services of the timber mistry and timber mazdoors, that the work in the top section gradually diminished and that, as such the workmen voluntarily submitted their resignations. According to the employers the workmen were temporary or casual. The employers also have taken two legal objections against maintainability of the reference viz. that the individual workmen could

not raise any dispute regarding the alleged stoppage of work and the same was outside the purview of the Industrial Disputes Act and that no dispute was raised by any of the workmen directly with the employers concerning the present Reference and as such it was invalid in law. The employers were represented by Shri S. S. Mukherjee, Advocate and the workmen by Shri J. D. Lal, Advocate. On behalf of the employers 3 witnesses were examined and Exts. M1 to M13 and W1 to W5 were marked. On behalf of the workmen all the 5 workmen were examined.

4. The first legal objection taken by the employers virtually challenges the validity of S.2A of the Industrial Disputes Act. S.2A was introduced by Act No. 35 of 1965. Under S.10 (1) & (2) of the Industrial Disputes Act, the appropriate government, when is of opinion that any industrial dispute exists or apprehended has power to refer the dispute or any matter appearing to be connected with or relevant to the dispute to a board, labour court, or tribunal as the case may be. The term "industrial dispute" is defined in S.2(K) of the Industrial Disputes Act as meaning any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. Prior to the introduction of S. 2A it was a settled law that the dispute or difference with the employers by the workmen should be raised by the workmen collectively through their union or jointly by a substantial number of workmen of the industry. S.2A now introduced makes an exception to this settled law stating that where any employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman, any dispute or difference between the workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute. In the result, the appropriate government can treat now a dispute falling under S.2A as an industrial dispute and exercise its power vested in it under S.10(1) & (2). Sri S. S. Mukherjee, the learned Advocate for the employers has brought to my notice the judgment of a Single Bench of the Calcutta High Court in matter No. 654 of 1970 dated 28th July, 1971. Through this judgment S. P. Mitra, J. has struck down S.2A read with S.10 as void and illegal stating that it offends the provisions of Article 14 of the Constitution. After the decision of the Supreme Court in Niemla Textile Finishing Mills Ltd. The Second Punjab Tribunal and Others (AIR-1957 S.C. 329) the validity of S.10 cannot be questioned. Now it cannot be said that the section has given the appropriate Government an unguided or unfettered or uncontrollable discretion. At page 337 the Supreme Court has observed "the basic idea underlying all the provisions of the Act is the settlement of industrial disputes and the promotion of industrial peace so that production may not be interrupted and the community in general may be benefited". The reasoning of the Calcutta High Court proceeds on the assumption that there could be no threat to industrial peace when the general body of the workmen are not parties to the dispute, that if 5 individual workmen who are entitled to invoke the provisions of S.2A approach the appropriate Government, then under S.10 of the Act, the said Government has the power to send four of them to four different types of authorities with a view to investigation or settlement of the dispute and in the case of the fifth workman it may refuse to take any action at all at its whim and pleasure and that the power that the appropriate Government enjoys under S.10 results in discrimination when applied to cases coming within the scope of S.2A. I am not able to agree that in all cases falling under S.2A there

cannot be threat of interruption of production or industrial strife or breach of industrial peace or that "the threat to industrial peace and the general body of workmen being parties to the dispute are merely two different ways of stating on and the same thing" or that S.2A read with S.10 offends Article 14 of the Constitution. There are decisions of other High Courts which are not in agreement with the Calcutta Decision referred to above. I may refer to the decision of the Mysore High Court in P. Janardhans v Union of India (AIR 1970 Mysore 171) which has upheld the validity of S.2A under similar circumstances. For these reasons I cannot find myself in agreement with the view expressed by the Calcutta High Court and, consequently, I find no substance in the objection. Shri S. S. Mukherjee for the employers has also argued that S.2A does not mention "stoppage" and, as such the workmen could not claim benefit of the section. I do not find any force in the contention, inasmuch as the section can be invoked whenever an employer "discharges, dismisses, retrenches or otherwise terminates" the services of an individual workman. "Stopping" a workman from work cannot mean anything other than "terminating" his service. The nature of the punishment inflicted is basically the same whatever terminology may be attached to it.

5. The other legal objection taken by the employers involves in it a mixed question of law and facts and it is that before raising with the Assistant Labour Commissioner (C) (Conciliation Officer) the dispute was not raised by the workmen or any one on their behalf directly with the employers and, as such the dispute referred for adjudication cannot be an industrial dispute. Though it is not necessary in all cases, generally the workmen should put up their demands before the employers and the employers should refuse to accept them in order to give rise to an industrial dispute before it is raised with the Conciliation Officer. In the instant case it has been the case of the workmen that when they were stopped from work they approached the management with a demand to allow them to resume their duties but without any avail. This fact is denied by the employers and as such it has become a question of fact. On behalf of the workmen all the five workmen have stated on oath that they had made the demand. WW1 has deposed that for about a month of stopping him from work he went to the manager continuously asking for work and the Manager went on refusing it. WW2 also has spoken to the same effect. WW3 says that after he was stopped from the work he went to the Manager twice by himself asking for work and the Manager denied the same to him on both the occasions. The evidence of WW4 and WW5 also is to the same effect. In the cross-examination it is elicited from them that they did not submit any written application to the Manager asking for work. The Manager is examined as MW 3 and he has denied that any of the workmen or any one on their behalf had ever raised any dispute with him regarding the alleged stoppage of their work. As I have already stated, the case of the employers is that the workmen had submitted resignations and stopped work voluntarily. I shall presently discuss which of the two versions can be correct, but assuming that the case of the workmen is true, it appears to me highly probable and natural that the workmen should protest against sudden stoppage of their work and demand work as soon as they were stopped from work. Against the oath of the Manager there is an oath of all the 5 workmen. There is no document to prove or disprove the allegation. Under law it is not necessary that the demand or dispute should be raised only in writing. Considering all the attending circumstances and probabilities I am inclined to believe with the evidence of the workmen. Consequently, I find the objection of the employers as unsustainable. It is rejected.

6. On the merits the case of the parties is simple. According to the reference the five workmen were stopped from work from the dates mentioned against

their names in the schedule of the reference and the question for adjudication is only justification on the part of the management for doing so. In view of the decision of the Supreme Court in Delhi Cloth and General Mill Co. Ltd. v their workmen and others (1967 I L.L.J. 423) parties cannot be allowed to challenge the very basis of the issue set forth in the order of reference and the employers in the present case cannot be heard to say that they did not stop the workmen from work or that they did not stop them from the dates mentioned in the reference. The case of the employers otherwise also is not convincing. According to the employers the 5 workmen have submitted voluntarily resignations Exts. M1 to M5 on different dates and also had received voluntarily their full and final payment under vouchers, Ext. M8 to M12 and left the colliery. The resignation letters, Ext. M1 to M5 are written by the Attendance Clerk of the colliery MW1. Admittedly, the resignation letters M1 to M5 are written on different dates. MW1 says that the workmen went to him individually and not simultaneously in a group and that MW1 had written each one of the Exts. M1 to M5 as dictated by the concerned workman and that he had written them in the same language as dictated by the workmen. But Exts. M1 to M5 are similar in language sentence by sentence, except that in Exts. M3 to M5 dates are mentioned from which the workmen intended to stop work. All these resignation letters, Exts. M1 to M5 bear thumb impressions and they are not attested by any witness. Before this Tribunal each of the 5 workmen, WW1 to WW5 has signed his deposition in Hindi and each of them has deposed that he knows reading and writing Hindi a little and signing in Hindi. Each of them has denied his thumb impression on the resignation letters. MW1, the scribe of the resignation letters, Exts. M1 to M5 says that he does not know if the workmen know reading and writing Hindi language. WW1 has deposed that he was receiving his wages in paysheets against his signature. On behalf of the workmen an application was submitted on 3rd April 1971 to call for the wage-sheets for the years 1968 and 1969 from the employers. On 2nd June 1971 the employers submitted explanation that the workmen being temporary or casual were not paid their wages through wage-sheets but they were paid through vouchers. At the same time they produced some wage sheets for 1968 and 1969 and some payment vouchers. The vouchers marked for the employers as Exts. M8 to M12 also bear thumb impressions said to be of the workmen and these thumb impressions are specifically denied by each of the concerned workmen. There are some more vouchers filed by the employers. They are not marked exhibits. Out of them I see 3 vouchers marked by me now for identification as A, B and C in the name of Jalaluddin Mian and all the 3 bear signatures on the revenue stamps. Jalaluddin Mian happens to be the name of the first of the 5 workmen mentioned in the reference. I cannot say definitely that the 3 vouchers A, B and C relate to this first workman of the schedule or the signatures on them are his, but this probabilities that the first workman of the schedule of reference could sign his name in Hindi. Shri J. D. Lal Advocate for the workmen contends that the employers have not produced all the wage-sheets and suppressed those containing signatures of the workmen. In para 12 of their statement the employers have mentioned that 5 workmen were engaged in a scam top pit, that the roof condition of top section was somewhat in bad patches and needed services of timber mistry and timber mazdoors, that the work in the top section greatly diminished and that on this account the workmen voluntarily submitted their resignations. In short, according to the employers the work of the top section having diminished was the reason why the workmen voluntarily resigned. It appears to me that if the work is diminished it is more probable for the employers should get rid of the surplus workmen and not the workmen should forgo their livelihood. The manager of the colliery, MW3 comes forth with

a different story. According to him, in the year 1958-69 they had 5 separate working mines in the colliery. One of them was 2 pit and they were working 2 sections in that pit, 9 seam top and 9 seam bottom. They were working in 9 seam top section from sometime in the middle of 1967 and stopped working sometime in the first quarter of 1970. It is significant to remember at this stage that the alleged resignation letters, Exts. M1 to M5 and the vouchers Exts. M8 to M12 are all dated prior to the first quarter of 1970, indicating that the workmen had resigned and received their dues before the work in the 9 seam top section had actually stopped. MW. 3 further says that working of 9 seam top section was stopped because they began receiving complaints that the coal raised from the section was bad and because the same quantity of good coal they could raise from 9 seam bottom section. The manager, MW.3 further deposed that all the workmen of 9 seam top section were transferred to 9 seam bottom section. It follows that the 5 workmen concerned also must have been transferred to 9 seam bottom section. If so, there could be no reason for the workmen to submit resignations. Whatever that might be, I am not convinced that because the work had diminished the workmen had chosen to resign their jobs voluntarily. For all these reasons I am not inclined to believe the case put forth by the employers and I find the case of the workmen as true. I do not find any justification on the part of the employers in stopping the workmen from their work.

7. The employers have pleaded that the workmen were temporary or casual. But I do not find any relevancy in this plea, because it is not their case that the workmen being temporary the employers had chosen to stop them from work. Similarly, I do not find Exts. W.1 to W.5, the training certificates of the workmen as of any consequence, inasmuch as the employers have not denied that the workmen were their employees.

8. In the result, I find that the action of the management of South Govindpur Colliery, Post Office, Katrasgarh, District Dhanbad in stopping the 5 workmen from their work from the dates mentioned against their names in the schedule of reference was not justified and, consequently, each of them is entitled to be reinstated in his previous job with effect from the date mentioned against his name in the schedule of reference, and paid his wages and other emoluments as though his service was continuous. The award is made accordingly and submitted under S.16 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer
Central Govt. Industrial Tribunal
(No. 2) Dhanbad.

[No. 2/163/70-LRII.]

KARNAIL SINGH, Under Secy.

MINISTRY OF COMMUNICATIONS
(P. & T. Board)

New Delhi, the 30th March 1972

S.O. 961.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1-5-1972 as the date on which the Measured Rate System will be introduced in KALOL Telephone Exchange, Gujarat Circle.

[No. 5-6/72-PHB(9).]

D. R. BAHL,
Assistant Director General (PHB).

संचार विभाग

(आक-तार बार्ड)

नई दिल्ली, 30 मार्च, 1972

का. सा. 961.—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम, 1951 के नियम 434 के खण्ड III के पैरा (क) के प्रत्युत्साह आक-तार महानिदेशक ने कलोल टेलीफोन केन्द्र में दिनांक 1-5-72 से प्रमाणित कर प्रणाली लागू करने का निष्क्रिय किया है।

[सं 5-6/72-पी० एच० बी० (9)]

डॉ आर० बहल,

सहायक महानिदेशक (पी० एच० बी०)।

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

CORRIGENDA

New Delhi, the 4th April 1972

S.O. 962.—In the Ministry's notification No. S.O. 1261, dated the 19th March, 1971, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 19th March, 1971, at page 1677, in serial No. (1) under the heading "Punjab", for the words "Gurdas Sing" read "Gurdas Singh".

S.O. 963.—In this Ministry's notification No. S.O. 1268, dated the 22nd March, 1971, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 22nd March, 1971,

- (a) at page 1728 in Serial No. (8), under the heading "Mysore" for the words and figures "Date: 13th March, 1971", read "Date: 12th March, 1971";
- (b) at page 1728 in Serial Nos. (1) and (2): under the heading "Orissa" for the words "Som Nath Soni, Returning Officer", wherever they occur, read "Som Nath Som"; and
- (c) at page 1735 in Serial No. (31) under the heading "Tamil Nadu" for "Muruganantham, S.A. of 86, Melur Bungalow Street, Tuticorin Thanjavur", read "Kathamuthu, M. Communist Party Office, 66, East Main Street, Thanjavur".
- (d) at page 1735 in Serial No. (32) under the heading "Tamil Nadu" for "Chellachami, A.M. Ammanangulam, Panaiyur Post, Sankarankottai Taluk", read "Thiru Somasundaram, S.D. Sendangadu Village and Post, Pattukkottai Taluk".
- (e) at page 1736 in Serial No. (37) under the heading "Tamil Nadu" for the words "S.Q. Banerji, Returning Officer" read "S. Narayanan, Returning Officer".

S.O. 964.—In the Ministry's notification No. S.O. 1576, dated the 14th April, 1971, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 14th April, 1971,

- (a) at page 1878 for the heading "Manipur" read "Mysore";
- (b) at page 1878 in Serial No. (3), under the heading "Mysore" for the word and figures "Date: 12-3-1971" read "Date: 11-3-1971"; and

(c) at page 1885, in Serial No. (6), under the heading "West Bengal" for the words "I Badkulla", read "I declare that Shrimati Bibha Ghosh (Goswami), village Suravisthan, Post Office Badkulla".

[No. F. 13(1)/71-Leg.II.]

H. C. VERMANI, Under Secy.

विषि और व्याय मंत्रालय

(विधावी विभाग)

शुद्धिपत्र

नई दिल्ली, 4 अप्रैल, 1972

का० आ० 965.—भारत के गजपत्र, असाधारण, भाग 2, खण्ड 3 उपखंड (II) (संख्या 234) तारीख 22 मार्च, 1971 में प्रकाशित अधिसूचना सं० का० आ० 1268 के पृष्ठ संख्या 1746 पर, मध्य प्रदेश शीर्ष के अन्तर्गत 4—गुना संसदीय निर्वाचन क्षेत्र के परिणाम की घोषणा की तीसरी पंक्ति में 'जय विलास प्रासाद' के स्थान पर 'जय विलास प्रासाद' और अन्त में गिर्णिंग आफिसर शब्दों के ऊपर 'रामाकृष्ण गुप्ता' के स्थान पर 'रामाकृष्ण गुप्ता' पढ़ा जाए।

[सं० का० 13 (1)/71/विधा० II]

एच० सी० बरमानी, अवर सचिव।

MINISTRY OF FOREIGN TRADE

New Delhi, the 30th March 1972

S.O. 966.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Woollen Textiles (Production and Distribution) Control Order, 1962, namely:—

1. (1) This order may be called the Woollen Textiles (Production and Distribution) Control Amendment Order, 1972.

(2) It shall come into force on the date of its publication in the official Gazette.

2. To clause 3 of the Woollen Textiles (Production and Distribution) Control Order, 1962, the following provisions shall be added at the end, namely:—

"Provided that in the case of the State of Jammu and Kashmir, the owner of every machine mentioned in sub-clause (1), (2) or (3), which is already acquired and installed, shall, within a period of 100 days from the date of commencement of the Woollen Textiles (Production and Distribution) Control Amendment Order, 1972, apply to Textile Commissioner for working each such machine:

Provided further that in the case of any machine for which a permission has not been obtained as required in the first proviso, the Textile Commissioner may, if he is satisfied that the owner had sufficient cause for not applying in time, and, after making such enquiry as he may consider necessary, issue a permit."

[No. F. 12(122)/69-Tex(E).]

K. KISHORE, Jt. Secy,

विदेश व्यापार मंत्रालय

नई दिल्ली, 30 मार्च, 1972

का० आ० 966.—प्रावश्यक वस्तु अधिकार, 1955 (1955 का 10) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ऊनी वस्तु (उत्पादन और वितरण) नियंत्रण आदेश 1962 में और आगे संशोधन करने के लिए निम्नलिखित आदेश एतद्वारा करती है, अर्थात् :—

1. (1) इस आदेश का नाम ऊनी वस्तु (उत्पादन और वितरण) नियंत्रण संशोधन आदेश, 1972 होगा।

(2) यह राजपत्र में प्रकाशित की तारीख को प्रवृत्त होगा।

2. ऊनी वस्तु (उत्पादन और वितरण) नियंत्रण आदेश, 1962 के खंड 3 के साथ निम्नलिखित परन्तुक, अन्त में जोड़े जायेंगे, अर्थात् :—

"परन्तु जम्मू-काशीर राज्य के मामले में, उपखंड (1),

(2) या (3) में वर्णित ऐसी प्रत्येक मशीन का स्वामी, जो पहले ही अर्जित की गई है और समायी गई है, ऊनी वस्तु (उत्पादन और वितरण) नियंत्रण संशोधन आदेश, 1972 के प्रारम्भ की तारीख से 100 दिन की अवधि के भीतर, ऐसी प्रत्येक मशीन को चालू करने के लिए वस्तु आयुक्त को आवेदन करेगा : परन्तु और भी कि किसी ऐसी मशीन के मामले में, जिसके लिए प्रथम परन्तुक में यथा अपेक्षित कोई अनुज्ञा अभिप्राप्त नहीं की गई है, वस्तु आयुक्त, यदि उसका समाधान हो जाए की उस स्वामी को समय पर आवेदन न करने के लिए पर्याप्त हेतुक था, और ऐसी जांच करने के पश्चात् जो वह आवश्यक समझे, अनुज्ञापन जारी कर सकेगा।"

[सं० का० 12(122)/69-Tex(E).]

के० किशोर, संयुक्त सचिव।

New Delhi, the 15th April 1972

S.O. 967.—In exercise of the powers conferred by Section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules further to amend the Export of Jute Products (Inspection) Rules, 1970 namely:—

1. (1) These rules may be called the Export of Jute Products (Inspection) Amendment Rules, 1972.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Export of Jute Products (Inspection) Rules, 1970, for rule 13 the following rule shall be substituted, namely:—

"13. Inspection Fee.—The following fees shall be paid as inspection fee for inspection of jute

products alongwith the notice for inspection:—

- (i) Carpet backing—Rs. 5.25 per metric ton.
- (ii) Hessian—Rs. 3.00 per metric ton.
- (iii) Sacking and others—Rs. 1.50 per metric ton."

[No. 60(5)/70-EIEP.]

M. K. B. BHATNAGAR,
Deputy Director.

नई दिल्ली, 15 अप्रैल, 1972

का० आ० 967.—निर्यात (क्वालिटी) नियंत्रण और निरीक्षण अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार जूट उत्पाद निर्यात (निरीक्षण) नियम, 1970 में और आगे संशोधन करने के लिये, एतद्वारा निम्नलिखित नियम बनाती है ; प्रथम :—

1. (1) ये नियम जूट उत्पाद निर्यात (निरीक्षण) संशोधन नियम, 1972 कहे जा सकेंगे।

(2) ये सरकारी राजपत्र में अपने प्रकाशन की तारीख से प्रवृत्त होंगे।

2. जूट-उत्पाद-निर्यात (निरीक्षण) नियम, 1970 में नियम 13 के स्थान पर निम्नोक्त नियम प्रतिस्थापित किया जाएगा :—

"13. निरीक्षण फीस—जूट उत्पादों के निरीक्षण के लिये निम्नोक्त फीस निरीक्षण फीस के रूप में निरीक्षण की सूचना सहित संदर्भ की जाएगी :—

(1) कालीन अस्तर	5.25 रु० प्रति मे० टन
(2) हैसियन	3.00 रु० प्रति मे० टन
(3) टाट तथा अन्य सामान	1.50 रु० प्रति मे० टन

[सं० 60(5)/70-ई० आई० ई० पी०]

एम० क० बी० भट्टनागर,
उप-निदेशक।

वित्त मंत्रालय

(राजस्व और बीमा विभाग)

बीमा

नई दिल्ली, 10 दिसम्बर, 1971

का०आ० 5486.—आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार निम्नलिखित स्कीम को एतद्वारा प्रवृत्त करती है।

आपात जोखिम (उपक्रम) बीमा स्कीम, 1971

1. संक्षिप्त नाम, विस्तार और प्रारम्भ.—(1) यह स्कीम आपात जोखिम (उपक्रम) बीमा स्कीम कही जायगी।

(2) इसका विस्तार सम्पूर्ण भारत पर है।

(3) यह 10 दिसम्बर, 1971 को प्रवृत्त होगी।

2. परिभाषाएँ :—इस स्कीम में, जब तक कि सन्दर्भ से अन्यथा अपेक्षित न हो—

(1) "अधिनियम" से आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का) अभिप्रेत है;

(2) "सरकारी अभिकर्ता" से अधिनियम के प्रयोजनों में से किसी के लिए केन्द्रीय सरकार के अभिकर्ता के रूप में कार्य करने के लिए धारा 4 के अधीन नियोजित कोई भी व्यक्ति अभिप्रेत है;

(3) "पैरा" से इस स्कीम का पैरा अभिप्रेत है;

(4) "धारा" से अधिनियम की धारा अभिप्रेत है;

(5) जो शब्द और पद इसमें परिभाषित नहीं हैं उनके वही अर्थ हैं जो उन्हें अधिनियम में दिए गए हैं।

3. स्कीम की परिधि और विस्तार.—(1) केन्द्रीय सरकार, उन उपक्रमों के सम्बन्ध में जिन्हें यह अधिनियम लागू है, आपात जोखिमों के विरुद्ध ऐसी सम्पत्तियों का बीमा, जहां तक कि अधिनियम में उपबन्ध किया गया है, करने का दायित्व एतद्वारा अपने ऊपर लेती है।

(2) केन्द्रीय सरकार भारत में किसी व्यक्ति के सम्बन्ध में, अधिनियम के अधीन बीमा-योग्य किसी सम्पत्ति की बाबत जिस पर उसका स्वामित्व नहीं है किन्तु जिसमें उसका हित है, आपात जोखिमों के विरुद्ध ऐसे व्यक्ति का बीमा ऐसे हित तक करने का भी दायित्व एतद्वारा अपने ऊपर लेती है।

4. सम्पूरित सम्पत्तियों का बीमा.—(1) इस स्कीम के प्रारम्भ पर विद्यमान उपक्रम का प्रत्येक स्वामी, इस स्कीम के अनुसार आपात जोखिमों के विरुद्ध बीमे की एक पालिसी, धारा 5 के उपधारा (1) के अधीन निकाली गई अधिसूचना में विनिर्दिष्ट अवधि के अन्दर लेगा।

(2) स्वामी पैरा 5 के उपबन्धों के अधीन रहते हुए, ऐसी सम्पत्ति का प्रत्येक स्वामी जो उपपैरा (1) में निर्दिष्ट अधिसूचना में विनिर्दिष्ट तारीख के पश्चात अधिनियम के अधीन बीमा योग्य हो गई है, जिस तिमाही में वह संपत्ति अधिनियम के अधीन बीमा योग्य हुई है, उसके बाद वाली अगली तिमाही के आरम्भ होने के पहले, इस स्कीम के अनुसार, आपात जोखिमों के विरुद्ध बीमा की एक पालिसी लेगा।

(3) उपक्रमों का प्रत्येक ऐसा स्वामी जिससे ऐसी बीमाकृत सम्पत्ति को जिसे नुकसान हुआ है फिर से सन्तुष्टि करने की अपेक्षा केन्द्रीय सरकार द्वारा की गई है, उस सम्पत्ति का पुनः सन्तुष्टि जिस तिमाही में पूरा हुआ हो उसके बाद वाली अगली तिमाही के आरम्भ होने के पहले इस स्कीम के अनुसार, आपात जोखिमों के विरुद्ध बीमा की एक पालिसी लेगा।

(4) जब ऐसे किसी उपक्रम का स्वामी, जो कारखाना है, उस कारखाने का अधिभोगी नहीं है, तब कारखाने का अधिभोगी, उस दशा में सिवाय जिसमें स्वामी बीमा की पालिसी पहले ही ले खुका हो, स्वयं पालिसी लेगा और जब ऐसी पालिसी ली जाती है तब अधिभोगी के बारे में समझा जाएगा कि वह स्वामी के अभिकर्ता के रूप में काम करता है और वह इस बात का हकदार होगा कि स्वामी से वह सब राशियां प्राप्त करे जो उसने पालिसी के प्रीमियमों के रूप में दी हैं।

5. निर्माणाधीन संकर्म.—(1) यह स्कीम ऐसे निर्माणाधीन संकर्म के बारे में, जो पूरा होने पर अधिनियम के अधीन बीमा योग्य सम्पत्ति हो जाएगी और ऐसे संकर्म से अनुलग्न संयंत्र या मशीनरी के बारे में भी वही दायित्व, जिनका वचन उपक्रमों के बारे में इस स्कीम द्वारा किया जाता है केन्द्रीय सरकार द्वारा चलाए गए उपक्रम को भी वहां तक ऐसे संयंत्र या मशीनरी के लिए आपात जोखिमों के विरुद्ध कोई व्यवस्था, बीमे की किसी अन्य पालिसी द्वारा, तत्समय नहीं की गई है, और वहां तक भी लागू करेगी जहां तक कि ऐसा संयंत्र या मशीनरी आपात जोखिम (माल) बीमा अधिनियम, 1971 (1971 का) के अधीन तत्समय बीमा योग्य नहीं है।

(2) उपर्युक्त (1) में निर्दिष्ट संकर्म और संयंत्रों और मशीनरी के बारे में पालिसी विकल्पः स्वामी या आशयित अधिभोगी के अनुरोध पर ली जा सकती है। जब ऐसे किसी विकल्प का प्रयोग किया जाता है तब पालिसी के लिए आवेदन इस स्कीम के प्रारम्भ की तारीख से एक मास या संकर्म के प्रारम्भ से एक मास दोनों में जो भी पश्चात्वर्ती हो, उसके अन्दर किया जाएगा। एक बार प्रयुक्त हो जाने पर विकल्प अन्तिम हो जाएगा, और जब बीमे की पालिसी इस उपबन्ध के अधीन ले ली जाती है तब पश्चात्वर्ती तिमाहियों में भी बीमे की पालिसी लेना स्वामी के लिए तब तक अनिवार्य होगा जब तक कि सम्पूर्ण सम्पत्ति पैरा 4 के उपबन्धों के अधीन अनिवार्यः बीमा-योग्य नहीं हो जाता।

6. आवेदन की पद्धति.—(1) इस स्कीम के अधीन बीमा के लिए प्रत्येक आवेदन का यह ध्यान में रखते हुए कि आवेदन मूल पालिसी के लिए ही या अनुपूरक पालिसी के लिए जैसा अपेक्षित हो उसके अनुसार पहली अनुसूची के भाग क या भाग ख में उपदर्शित प्ररूप के अनुसार होगा और सरकारी अभिकर्ता या सरकारी अभिकर्ता के उस अधिकारी से जो उस अभिकर्ता द्वारा इस निमित्त प्राधिकृत किया गया हो, किया जाएगा।

(2) प्रत्येक ऐसा आवेदन ऐसे खजाना चालान के साथ दिया जाएगा जो एल 11-प्रकीर्ण-आपात जोखिम (उपक्रम) बीमा स्कीम, 1971-बीमा प्रीमियम-शीर्ष के अधीन सरकारी खजाने में अपेक्षित प्रीमियम के संदाय का साक्षय प्रस्तुत कर, दिया जाएगा।

(3) यदि बीमा पालिसी के बालू रहने के दौरान कारखाने के स्वामित्व या अधिभोग या उपक्रम के स्वामित्व में कोई परिवर्तन होता है तो सातवीं अनुसूची में उपदर्शित प्ररूप में उसकी सूचना सरकारी अभिकर्ता को दी जाएगी।

7. बीमायोग्य सम्पत्तियों के मूल्यांकन का ढंग:—अधिनियम के अधीन बीमे के प्रयोजन के लिए सम्पत्ति का बीमायोग्य मूल्य निम्नलिखित सिद्धांतों के अनुसार अभिनिश्चत किया जाएगा :—

(क) बीमा योग्य मूल्य, सम्पूर्ण संकर्मों की दशा में वास्तविक मूल्य और उन संकर्मों की दशा में जो निर्णायकीन हैं या सम्पत्ति में किए जाने वाले ऐसे परिवर्त्तन हैं जिनके पूरे हो जाने की आशा है, दोनों स्थितियों में अवक्षण के लिए सम्यक् भौका देने के बाद सु संगत तारीखों पर प्रचलित कोमतों के अनुसार उनका प्राक्कलित मूल्य होगा।

परन्तु चाय की खड़ी फसल को बावत बीमायोग्य मूल्य निम्नलिखित रीति से अभिनिश्चत किया जाएगा, अर्थात्:—

(i) उस तारीख से, जिसको किसी बाग में पैदा होने वाली चाय की फसल स्कीम के अधीन प्रथमतः बीमा योग्य हो जाती है, ठीक पहले वाले तीन लेखा वर्षों में उस बाग से बेची गई संसाधित और प्रसंस्कृत चाय के ओसत वार्षिक विक्रय आगम अभिनिश्चत किए जाएंगे और उक्त ओसत वार्षिक विक्रय आगम से प्रथमतः विक्रयों पर लाभ लेकर उतनी रकम की कटौतियां की जाएंगी जितनी प्रभिनिश्चत ओसत वार्षिक विक्रय आगम के पांच प्रतिशत के बराबर है और दितीयतः संसोधन, प्रसंस्करण, परिवहन, व्यवहार और विक्रय के फलस्वरूप किए गए माने गए ओसत वार्षिक व्यय लेकर उतनी रकम की कटौतियां की जाएंगी जितनी आय आंश व्यय लेखा से या यदि कोई ऐसा लेखा नहीं रखा जाता है तो लाभ और हानि लेखा से यथा प्रभिनिश्चत उक्त तीन वर्ष में उस बाग के ओसत वार्षिक आवर्ती व्यय (ऐसे प्राप्त वार्षिक प्रावर्ती व्यय से उर्वरक, श्रम स्थापन लेखे कोई व्यय या उससे सम्बद्ध या कृषिक कार्यों से पैदा होने वाला कोई अन्य व्यय निकाल देने के बाद) के बराबर है,

(ii) खण्ड (i) के उपबन्धों के अनुसार परिनिर्धारित विक्रय आगम का अतिशेष बाग में चाय की खड़ी फसल का वार्षिक मूल्य माना जाएगा और उस वार्षिक मूल्य इस स्कीम के अधीन बीमायोग्य होगा,

(iii) बाग में चाय की खड़ी फसल का वार्षिक मूल्य जितना कि वह खण्ड (ii) के उपबन्धों के अनुसार परिनिर्धारित किया जाता है इस बात की ओर कोई संकेत किए बिना कि किसी भी समय वह फसल किस हालत में है या कितनी

उग चुकी है किन्तु खण्ड (jv) के उपबन्धों के अधीन किसी भी मंसम में बाग में कृषिक कार्यों के प्रारम्भ की तारीख से उस तारीख सक जिसको उस बाग में चाय की पत्तियां तोड़ने का काम उस मौसम में पूरा हो जाता है, अभी समयों पर बीमा योग्य मूल्य समझा जाएगा, पूर्वोक्त तारीखें इस स्कीम के प्रयोजनों के लिए हर मौसम में उस व्यक्ति द्वारा प्रमाणित की जाएगी जिस पर फसल का बीमा कराने का दायित्व है।

(jv) किसी चाय के बाग का स्वामी, उस समय जब कि उस पर उस बाग में खड़ी फसल के बीमा कराने का दायित्व पहले पहल आता है और तत्पश्चात् जिस फ़ भाई के दौरान इस स्कीम के अधीन जारी की गई बीमा पालिसी प्रवृत्त है उस तिमाही के प्रारम्भ पर, यावत्-यक्ष्य खण्ड (j) और (jj) में उपवर्णित सिद्धांतों के अनुसार उस फसल का मूल्य अभिनिश्चित करेगा जो, इस कारण कि उस की पत्तियाँ तोड़ने का काम हो चुका है, आपात जोखम (माल) बीमा स्कीम के अधीन बीमाकृत की जाने के दायित्व के अधीन है या बीमाकृत की जा सकती है और ऐसा होने पर उस बाग में उगने वाली चाय की फसल का बीमा योग्य मूल्य तदनुसार घटा दिया जाएगा।

(x) यह सब फ़ और मशीनरी और नौकाय, मशीनरी और फिटिंग जो स्कीम के अधीन बीमा की जाने वाली संपत्ति का भाग है, यथास्थिति आलू समुत्थान या सेवा-आम जलयान के भाग के रूप में, न कि स्क्रेप के रूप में मूल्यांकित की जाएंगी।

(g) खण्ड (k) में निर्दिष्ट सुंसंगत तारीखें, निम्नलिखित होंगी :—

(i) संपूर्ण संकर्मों के सम्बन्ध में वह तारीख जबसे पालसी प्रभावी होनी है, और (ii) जो संकर्म निर्माणाधीन है उनके या मम्पत्ति में उन परिवर्धनों के सम्बन्ध में, जो प्रत्याशित है या जिनका कर दिए जाने की आशा है, उस तिमाही का अन्तिम दिन जिसमें बीमे के लिए आवेदन किया गया है।

(d) यदि इस सम्बन्ध में कोई सदैह उत्पन्न होता है कि किसी बाग में खड़ी चाय की फसल का बीमा योग्य मूल्य उपपैरा (k) के परन्तुक में उपवर्णित सिद्धांतों के अनुसार ठीक ठीक संगणित किया गया है या नहीं तो यह मामला अध्यक्ष, चाय बोर्ड के पास भेजा जाएगा और इस मामले में उसका विनिश्चय अन्तिम होगा।

8. प्रीमियम की दर :— (1) इक्सीम दिसम्बर, 1971 को समाप्त होने वाली तिमाही की वाक्य जारी की गई किसी बीमा पालिसी के अधीन संदेय प्रीमियम, बीमाकृत रकम के हर सो सप्ताह या उसके भाग के लिए, पञ्चवीस पैसे की दर से संदेय होगा।

(2) उपपैरा (1) के अधीन संदेय प्रीमियम को रकम निकटतम रूपए तक पूर्णांकित की जाएगी और उस पर पूरी तिमाही की बाबत एक मुश्त दी जाएगी जिसमें वह पालसी प्रवृत्त है या प्रवृत्त बनी रहती है परन्तु यदि कोई सम्पत्ति, तिमाही के प्रारम्भ होने के पश्चात् स्कीम के अधीन बीमा योग्य हो जाती है तो प्रीमियम की राशि इस उपबन्ध के अनुसार शोध वास्तविक रकम को निकटतम रूपए में पूर्णांकित करके एक मुश्त संदेय होगी जो सम्पूर्ण तिमाही के बौद्धान बीमा-योग्य संपत्तियों की बाबत संदेय रकम उत्तीर्ण रकम घटाने के बाद आई रकम के बराबर होगी जिसका प्रथमोलिंगित रकम के साथ वही अनुपात है जो सम्पत्ति के बीमा योग्य होने से पूर्व उस तिमाही के पूर्ण मासों की संख्या का तीन के साथ है।

9. प लिसी का जारी करना और पर्वतर्ती पालीसियों का सत्यापन :— (1) यदि आवेदन विहित प्रलूप में सही सही किया गया है और पैरा 6 के उपपैरा (2) में विनिर्दिष्ट लेखाखार्ष के अधीन खाजाने में प्रीमियम के संदाय का साध्य प्रस्तुत करने वाले खाजाना चालान के साथ दिया गया है तो सरकारी अभिकर्ता आवेदन की प्राप्ति के पश्चात् यथासंभव शीघ्र बीमा पालिसी जारी करेगा।

(2) यदि आवेदन के साथ कोई भी चालान नहीं है या यदि चालान ठीक नहीं है वो आवेदन अरेक्षित चालान के साथ पुनः प्रस्तुत किए जाने के लिए आवेदक को लौटा दिया जाएगा।

(3) यदि आवेदन के साथ में जो चालान ठीक है किन्तु बीमे के लिए जो आवेदन प्राप्त है वह पहली अनुसूची में उपवर्णित प्रलूप के अनुसार नहीं है तो चालान सरकारी अभिकर्ता द्वारा वो रद्दा जा सकेगा और आवेदन ठीक तरह से भरे जाने के बाद पुनः प्रस्तुत किए जाने के लिए, आवेदक को वापस किया जा सकता है।

(4) यदि आवेदन प्रलूप के साथ भेजा गया चालान इतनी रकम के लिए है जो सम्पत्ति के बीमायोग्य मूल्य परोड़र प्रीमियम से कम है तो बीमायोग्य मूल्य के ऐसे अनुपात के लिए एक पालसी जारी कर दी जाएगी जिसका चालान के अधीन संदेय रकम की शोध प्रीमियम के साथ है और आवेदक से कहा जाएगा कि वह संपत्ति के बीमा योग्य मूल्य के अतिशय की बाबत, जो बीमे के अन्तर्गत न आया हो, एक और आवेदन करें।

(5) पूर्वामी उपपैरा के उपबन्धों में अन्तर्विष्ट किसी बात के होने पर भी, यदि किसी आवेदन से प्रकट होता है कि आवेदक ने उसी सम्पत्ति या उसके किसी भाग की बाबत आग, दुर्घटना या सामुद्रिक जोखिमों के विनाश बीमाकर्ता द्वारा जारी की गई कोई बीमा पलिसी ने ली है तो आवेदकी अभिकर्ता इस स्कीम के अधीन किसी पालसी का जारी किया जाना स्वयंवरकानुसार तब तक स्थिरता कर सकेगा जब तक कि उस बीमाकर्ता से जांच नहीं कर ली जाती।

10. पालिसी का प्रह्लप श्रीर अधिकारी—स्कीम के अधीन जारी की गई प्रत्येक बीमा पालिसी दूसरी अनुसूची में उपवर्णित प्ररूप में होगी और जिस तिमाही के लिए पालिसी जारी की गई है उस के अन्तिम दिन समाप्त होने वाली अवधि के बारे में होगी।

11. हर एक उपक्रम का एक पालिसी द्वारा बीमाहत होना—(1) प्रत्येक पालिसी एक ही उपक्रम से अनुलग्न अधिनियम के अधीन बीमायोग्य सम्पत्ति की बाबत होगी, परन्तु उस समय जबकि कोई संयंक मशीनरी या सामग्रियां एक से अधिक उपक्रमों से किसी एक के स्वामी या अधिभोगी के सम्बन्ध में जारी की गई एक ही पालिसी के अधीन ग्रलग ग्रलग बीमाहत की जा सकेगी।

(2) यदि पालिसी के चालू रहने के दौरान, उपक्रम से अनुलग्न अधिनियम के अधीन बीमायोग्य सम्पत्ति में कोई परिवर्धन किए गए हैं तो ऐसे परिवर्धनों की बाबत एक अनुपूरक पालिसी ली जाएगी।

12. पालिसियों के प्रभावी होने की तारीख—(1) जब बीमा पालिसी ऐसे सम्पूरित या प्रसामान्य रूप से काम करने वाले किसीउपक्रम की बाबत है जिसके यथास्थिति स्वामी या अधिभोगी पैरा 4 के उपबन्धों के अनुमार बीमा पालिसी लेने की अपेक्षा की गई है तब पालिसी इस प्रकार जारी की जाएगी जिससे वह उस तारीख से जिमको नहीं है : प्रकार दायी होता है या उस तारीख से जिमको प्रीमियम दिया जाता है, दोनों में से जो भी पश्चात् तर्वर्ती हो उस तारीख से, प्रभावी हो।

(2) जब बीमा पालिसी ऐसे निम्न अधीन संकर्मों की बाबत जो सम्पूरित होने पर अधिनियम के अधीन बीमायोग्य सम्पत्तियां हो जाएंगी और ऐसे संकर्मों से अनुलग्न ऐसे मयंत या मशीनरी की बाबत हैं जो अनिवार्यतः बीमायोग्य तो नहीं हैं किन्तु उन्हें स्वामी या आशयित अधिभोगी के विकल्प पर, पैरा 5 के अधीन बीमाहत किया जा सकता है, तब पालिसी इस प्रकार जारी की जाएगी जिससे वह जोखिम के प्रारम्भ होने की तारीख से या प्रीमियम के संदाय की तारीख से दोनों में से जो भी पश्चात् तर्वर्ती हो उस तारीख से प्रभावी हो।

(3) उप-पैरा (1) के प्रयोजनों के लिए, उस उपक्रम का, जो इस स्कीम के प्रारम्भ की तारीख को अन्तर्वर्त्य में है, यथास्थिति स्वामी या अधिभोगी के बारे में यह समझा जाएगा कि वह ऐसे प्रारम्भ की तारीख को अनिवार्य बीमा पालिसी लेने का दायी हो गया है और जो उपक्रम ऐसे प्रारम्भ की तारीख के पश्चात् आस्तित्व में आता है उसके, यथास्थिति, स्वामी या अधिभोगी से, अपने आवेदन में वह तारीख उपदर्शित करने की अपेक्षा की जाएगी जिसको वह इस प्रकार दायी होता है या हो गया है।

13. त्रिमियम न देना तथा अपवर्त्तन—(1) जब किसी व्यक्ति ने अपने से शोध किसी प्रीमियम का संदाय नहीं किया है या अधिनियम द्वारा यथा अपेक्षित बीमा अथवा अपेक्षित पूरी रकम का बीमा नहीं कराया है और किसी धन के, जो उसे देना पड़ता

यदि ऐसी असफलता न हुई होती, प्रीमियम के रूप में संदाय का तद्दारा अपवर्त्तन किया है तब अवबचित रकम का अवधारण अनुसार किया जाएगा।

(2) जिम व्यक्ति के विश्व उप-पैरा (1) के अनुसरण में अवधारण किया गया है ऐसा हर व्यक्ति उतने समय के अन्दर जो तीसरी अनुसूची में अधिकथित किया गया हो केन्द्रीय सरकार को अपील कर सकेगा जिसका विनिश्चय अन्तिम होगा।

(3) जब किसी तिमाही में, उस सम्पूर्ण तिमाही या उसके भाग की बाबत कोई शास्ति धारा 11 को उधारा (1) के अधीन किसी व्यक्ति से वसूल की गई है तब ऐसा व्यक्ति शास्ति के अतिरिक्त, उस तिमाही के अनवसित प्रभाग के लिए प्रीमियम का भी संदाय करेगा और ऐसे व्यक्ति से ऐसे प्रीमियम के संदाय पर तथा सम्पूरित आवेदन की प्राप्ति पर, अनवसित प्रभाग के लिए उसे एक पालिसी दी जाएगी :

परन्तु पालिसी उस तारीख से प्रभावी होगी जिसको प्रीमियम का संदाय किया जाता है।

14. पालिसी का खो जाना—पालिसी के खो जाने की दृष्टि में, पालिसी की दूसरी प्रति जारी नहीं की जाएगी, किन्तु यदि यह समाधानप्रद रूप से साधित कर दिया जाता है कि पालिसी जारी की गई है तो उस पालिसी का न होना तद्दीन किसी दावे के लिए बजन नहीं होगा।

15. प्रतिव्यापो पालिसियाँ, रद्द करण और प्रतिवाय : इस स्कीम में किसी बात के होने पर भी, जब किसी उपक्रम या अन्य परिसर से अनुलग्न, अधिनियम के अधीन बीमायोग्य किसी सम्पत्ति की बाबत कोई पालिसी ली गई है और उस सम्पत्ति के लिए धारा 15 के अधीन तत्पश्चात् छूट दी जाती है या वह “आपात जोखिम” पद में समाविष्ट किसी कारबाई या उपाय से अव्यथा न नहीं हो जाती है तो वह पालिसी, उस तारीख से जिसको, यथास्थिति, छूट प्रभावी होती है या वह सम्पत्ति पूर्वोक्त रूप में न नहीं हो जाती है, रद्द कर दी जाएगी और ऐसा होने पर जिस तिमाही में पालिसी रद्द की जाती है उस के मध्ये पालिसी के रद्द होने के ठीक पहले वसूल किए गए प्रीमियम की रकम में से प्रतिवाय उस अनुपात में किया जाएगा जो उतने सम्पूर्ण मासों की संख्या का, जिनके लिए पालिसी रद्द की गई है, तीन के साथ है।

16. जालिम का रद्द (1) बीमाहत वर्तित का उठाना होगा—(1) बीमाहत व्यक्ति पर हर दावे को बाकी बीम प्रतिशत हानि या नुकसान का भार होगा।

(2) यदि बीमायोग्य सम्पत्ति का कुल मूल्य पालिसी के अधीन बीमाहत राशि से अधिक है तो बीमाहत व्यक्ति को हानि के अनुगतिका भाग के अपने सहान करने के प्रयोजन के लिए उस आधिकारी और बीमाहत राशि के बीम प्रतिशत के लिए स्वयं अपना बीमाकर्ता ममझा जाएगा।

17. बाबों का निपटने का ढंग (1) स्कीम के अधीन प्रतिकर का संदाय, केन्द्रीय सरकार द्वारा ग्रहण किए गए दायित्व

की मीमांसा के अंदर केन्द्रीय सरकार के विकल्प पर निम्नलिखित में से किसी भी रूप में अर्थात् :—

(क) उस स्थिति में जबकि सरकार खोई या नुकसान हुई सम्पत्ति को यावत्साध्य पुनः उसी दशा में, जिस में वह ऐसी हानि या नुकसान घटित होने के पूर्व थी, कर देने के विकल्प का प्रयोग करती है, ऐसे प्रत्यावर्तन पर, ऐसी रीति में और ऐसी किस्तों में किया जाएगा जैसी केन्द्रीय सरकार उचित समझे; या

(ख) उस स्थिति में जबकि केन्द्रीय सरकार, खोई या नुकसान हुई सम्पत्ति के प्रत्यावर्तन सम्बन्धी कार्य की प्रगति के दौरान किस्तों में संदाय करना विनिश्चित करती है, ऐसी किस्तों में जैसी सरकार अवधारित करे और प्रत्येक किस्त की दशा में सुसंगत भागों के प्रत्यावर्तन के पश्चात्, ऐसी अवधि की समाप्ति पर किया जाएगा जैसी प्रत्यावर्तन के तथ्य और उसका उचित खर्च अधिनिश्चित करने के लिए अपेक्षित हो; या

(ग) हानि या नुकसान होने के समय तक अवक्षयण लेखे गुजाइश करने के बाद, मूल्य में हानि के लिए, उस समय जबकि बीमा पालिसी प्रभावित हुई या जब कि हानि हुई प्रचलित मूल्यों और कीमतों पर निर्धारित प्रतिकर, दोनों में से जो भी कम हो और जो नुकसान के फलस्वरूप सम्पत्ति को हुई हानि के लिए हो, ऐसी किस्तों में यदि कोई हो; किया जायगा, जैसी केन्द्रीय सरकार छोक समझे।

(2) उप पैरा (1) के अधीन कोई संदाय, उस तारीख से एक वर्ष की पश्चातवर्ती तारीख के लिए जिस तारीख को अधिनियम प्रवृत्त नहीं रहता, स्थिति किया जा सकेगा किन्तु ऐसे किसी स्थगन की दशा में, दावे के उस भाग पर जो केन्द्रीय सरकार द्वारा स्वीकृत है और असंदेत रह गया है उक्त एक वर्ष का अवसान हो जाने के समय से दो प्रतिशत प्रति वर्षकी दर से साधारण व्याप्त उस समय तक दिया जाएगा जब तक दावा पूर्णतः उन्मोचित नहीं हो जाता।

18. दावों का विवरण, सत्यापन और संवाद.—(1) सभी दावे चौथी अनुसूची में दिए गए प्ररूप में लिखित रूप में दूसरी अनुसूची में उपर्याप्त गतों की शर्त 7 में विनिर्दिष्ट समर्थन के अंदर सरकारी अभिकर्ता को दिए जाएंगे।

(2) दावे की प्राप्ति पर, सरकारी अभिकर्ता दावे का सत्यापन और हानि या नुकसान का निर्धारण ऐसे व्यक्ति से जो तत्त्वमय केन्द्रीय सरकार द्वारा इस नियमित मान्यता प्राप्त हानि निर्धारित है या यदि केन्द्रीय सरकार ऐसा निर्देश देती है तो ऐसे व्यक्ति या व्यक्तियों द्वारा कराएगा जो इसके द्वारा इस प्रयोजन के लिए विशेष रूप से प्रतिनिष्पत्त किया गया हो/किए गए हों।

(3) जैसे ही हानि निर्धारित दावे का सत्यापन करदे और हानि या नुकसान का, यदि कोई हो, निर्धारण कर दे वैसे ही वह सरकारी अभिकर्ता को रिपोर्ट भेजेगा जो ऐसे और सत्यापन के पश्चात् जिसे करना वह उचित समझे रिपोर्ट को अपनी टिप्पणी और सिफारिश के साथ भारत सरकार के वित्त मंत्रालय (राजस्व और बीमा विभाग) को भेजगा।

(4) इस स्कीम के अधीन किसी संदाय की प्राप्ति पर, दावेदार पांचवीं अनुसूची में उपर्याप्त प्ररूप में रसीद देगा।

19. स्कीम के अधीन बीमा योग्य सम्पत्ति की रक्षा के लिए उपबन्ध.—(1) केन्द्रीय सरकार आपात जोखिम के फलस्वरूप हानि या नुकसान से स्कीम के अधीन बीमा योग्य किसी सम्पत्ति की रक्षा के लिए या किसी ऐसी हानि या नुकसान को कम से कम करने के लिए विनियम बना सकेगी, और, उक्त विनियमों पर प्रतिकूल प्रभाव डाले बिना, सामान्यः सब उपक्रमों को या किसी विशेष उपक्रम को ऐसे कोई साधारण या विशेष श्रादेश दे सकेगी जैसे कि वह पूर्वोक्त प्रयोजनों के लिए ठीक समझे।

(2) उप पैरा (1) के अधीन जारी किए गए किसी आदेश में, यथास्थिति उस उपक्रम या कारखाने के, जिसकी बाबत सम्पत्ति के प्रत्यावर्तन के लिए कोई संदाय इस स्कीम के अधीन किया गया है, स्वामी या अधिभोगी से यह अपेक्षा की जा सकेगी कि वह, उस सम्पत्ति का पुनः सन्निर्णय या उसके परिसर में प्रतिवर्तन इस प्रकार करे जिससे किसी भविष्यवती आपात जोखिम के परिणाम से बचा जा सके या उसे कम किया जा सके या सुरक्षा या पूर्वावधानी विषयक ऐसे उपाय करके जैसे उचित प्रकार से आवश्यक हों या यदि ऐसा करना समीचीन या आवश्यक समझा जाता है तो उस सम्पत्ति को हटाकर किसी अन्य स्थान पर ले जाए।

(3) प्रत्येक स्वामी या अधिभोगी इस नियमित बनाए गए किन्हीं विनियमों, या आदेशों की अपेक्षाओं का अनुपालन करेगा।

(4) जब केन्द्रीय सरकार उपक्रम के, यथास्थिति, स्वामी या अधिभोगी से, सम्पत्ति को हटाकर किसी अन्य स्थान पर ले जाने की अपेक्षा करती है जैसा कि उपपैरा (2) में उपबन्धित है, तब केन्द्रीय सरकार ऐसे स्वामी या अधिभोगी को कारखाने या परिसर को हटाने का खर्च और किसी ऐसी सम्पत्ति के प्रतिस्थापन का खर्च जिसके लिए प्रतिकर अन्यथा खंडेय न हो किन्तु जो इस प्रकार हटाने के परिणामस्वरूप न रहें या अतिग्रस्त हों जाए, स्वामी या अधिभोगी से दावा प्राप्त होने पर देगी और किसी ऐसे दावे के सत्यापन और संदाय के सम्बन्ध में, यावत्साध्य, पैरा 18 में विविहत प्रक्रिया का अनुसरण किया जाएगा।

20. अधिनियम के कुछ प्रश्नों के लिए प्राधिकृत व्यक्ति.—केन्द्रीय सरकार को इस सूचना प्राप्त करने और अधिनियम की धारा 8 में यथा उपबन्धित किसी अन्य बात को करने के लिए उक्त धारा के अधीन किसी व्यक्ति को प्राधिकृत कर सकेंगी और ऐसा प्रत्येक व्यक्ति जो इस स्कीम के अधीन बीमा पालिसी लेने के लिए शायी है या जिसने बीमा पालिसी ली है इस प्रकार प्राधिकृत व्यक्ति

को, इस स्कीम के अनुसरण में प्राप्तव्यमें उसके कर्तव्यों के निर्वहन के लिए उसे सत्य बताने के लिए सब युक्तिशुक्त सुविधायें हर समय देगा या दिलाएगा।

21. ले ३ का नामन्—आपात जोखिम (उपक्रम) बीमा अधिकार में प्राप्त और उसमें संदर्भ सब राशियों का लेखा छढ़ी अनुसूची में उपर्याप्त प्ररूप में तैयार किया जायेगा और हर वर्ष प्रकाशित किया जाएगा।

22. निर्वचन.—यदि इस स्कीम के किसी उपबन्ध के निर्वचन के संबंध में कोई सेव्हेंड उत्पन्न होता है, तो वह मामला के द्वाय सरकार को भेजा जाएगा और उस पर उसका विनिश्चय अन्तिम होगा।

पहली अनुसूची

(पैरा 6 देविए)

भाग क

आवेदन का प्ररूप

भारत सरकार

आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971

(1971 का)

अधिनियम के अधीन बीमा योग्य सम्पत्ति के बीमे के लिए आवेदन

सं०—————

1. भावदक का नाम

2. पता

3. कारबार

4. परिसर/सम्पत्ति का विवरण और स्थान

5. क्या परिसर अधिनियम, 1948 की धारा 2(३) में यथापरिभाषित कारखाना है?

6. यदि सम्पत्ति निर्माण धीन है तो यह कब पूरी होगी?

7. तारीख जिसको बीमा की जाने वाली सम्पत्ति बीमा योग्य हो जाएगा।

8. बीमा की जाने वाली सम्पत्ति में आपका हित किस प्रकार है?

9. यदि आप कारखाना अधिनियम, 1948 की धारा 2(३) के अर्थ में कारखाने के अधिभोगी हैं किन्तु सम्पत्ति के स्वामी नहीं हैं तो आपको निम्नलिखित का उत्तर देना चाहिए:—

(i) स्वामी का नाम और पता

(ii) क्या आपसे स्वामी ने कहा है कि यह बीमा उनकी ओर से करा दें?

(iii) यदि नहीं, तो क्या आपको पता है कि कहीं स्वामी भी तो बीमे के लिए आवेदन नहीं कर रहे हैं?

10. बीमा की जाने वाली सम्पत्ति का वर्णन।

11. क्या बीमा किए जाने वाले भवन, संयंत्र, मशीनरी, सामग्री और अन्य सम्पत्तियों अधिनियम, दुर्बलता या सामुद्रिक जोखिम के विशद बीमाकृत हैं?

12. यदि हैं, तो निम्नलिखित का कथा कीजिए:

(क) बीमाकर्ता का नाम

(ख) निम्नलिखित पर बीमा की गई कुल राशि:

(i) भवन	रु०
(ii) संयंत्र, मशीनरी और सामग्रियां	रु०
(iii) अन्य सम्पत्तियां (व्यीरे दें)	रु०

जोड़

रु०

13. इस आवेदन की तारीख को निम्नलिखित का बीमा-योग्य मूल्य:—

(क) भवन	रु०
(ख) संयंत्र, मशीनरी और सामग्रियां	रु०
(ग) अन्य सम्पत्तियां (व्यीरे दें)	रु०

जोड़

रु०

14. निर्माणाधीन संकर्मों की दशा में, जिस तिमाही में बीमा किया गया है उस के अन्तिम दिन, निम्नलिखित का प्रावक्तित मूल्य कितना है:

(क) भवन	रु०
(ख) संयंत्र, मशीनरी और सामग्रियां	रु०
(ग) अन्य सम्पत्तियां (व्यीरे दें)	रु०

जोड़

रु०

टिप्पणी:—प्रश्न 13 और 14 के उत्तर में (क), (ख) और (ग) के बीच परस्पर अलग अलग रख में घोषित की जायें किन्तु प्रत्येक ब्लाक के सामने अलग अलग रकमें घोषित करना आवश्यक नहीं है। किन्तु यदि दावा किया जाता है तो दावेदार से विस्तारपूर्वक यह बताने को कहा जा सकता है कि मूल्यांकन कितने प्रकार किया गया है।

15. (i) क्या बीमा की जाने वाली सम्पत्ति में किसी अन्य व्यक्ति का कोई बीमा योग्य हित है?

(ii) यदि है, तो विशिष्टियां दें।

16. तारीख जब बीमा प्रारम्भ होना है

मैं हम वारणी देता हूँ देते हैं कि पूर्वोक्त कथा और विशिष्टियां सही हैं और मैं हम आपसे निवेदन करता हूँ/करते हैं कि मानक पालिसी के निवाधनानुसार, जिसे मैं हम न्यूकीकार करने पर सहमत हूँ/हैं, आप मेरी हमारी ओर से भारत सरकार के पास आपात जोखिम (उपक्रम) बीमा करा दें।

मैं हम इस पर और सहमत हूँ हैं कि राष्ट्रपति और मेरे/ हमारे बीच संविदा का आधार यह अवेदन होगा।

मैं/हम.....पर

*खजाने

*भारतीय रिजर्व बैंक

*भारतीय स्टेट बैंक

मैं संदर्भ-----रु० का तारीख-----
का चालन संलग्न करता हूँ/करते हैं।

स्थान-----

आवेदक के हस्ताक्षर

तारीख-----

अभिविधित

आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971
(1971 का)

श्री-----से, आवेदन संख्या-----
तारीख-----

*खजाने

*भारतीय रिजर्व बैंक

*भारतीय स्टेट बैंक

मैं संदर्भ-----रु० के तारीख-----के चालन
के साथ प्राप्त।

तारीख----- सरकारी अधिकर्ता के प्राधिकृत प्रति-
निधि के हस्ताक्षर

भाग ख

अनुपूरक पालिसी के लिए आवेदन परुप

भारत सरकार

आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971
(1971 का)

अनुपूरक बीमा के लिए आवेदन

संख्या---

1. आवेदक का नाम :

2. पता :

3. कारबाह :

4. परिसर/सम्पत्तियों का विवरण और स्थान

(*जो लागू न हों, उसे काट दीजिए)

5. आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का) के अधीन पूर्वतन पालिसियों (मूल और अनु-पूरक) के संबंधां :

6. पूर्वतन पालिसियों द्वारा निम्नलिखित पर बीमाकृत रकमें :

(क) भवन रु०

(ख) संयत्त, मशीनरी और सामग्रियां रु०

(ग) अन्य सम्पत्तियां (व्यौरे दें) रु०

जोड़ रु०

7. बीमा की जाने वाली सम्पत्ति का वर्गन :

8. वे अतिरिक्त रकमें जिन के लिए निम्नलिखित का बीमा प्रद दिया जाना है :

(क) भवन रु०

(ख) संयत्त, मशीनरी और सामग्रियां रु०

(ग) अन्य सम्पत्तियां (व्यौरे दें) रु०

जोड़ रु०

9. यह आवेदन करने के कारण :

20. (i) क्या बीमा की जाने वाली सम्पत्ति में किसी अन्य व्यक्ति का कोई बीमायोग्य हित है ?

(ii) यदि है तो विशिष्टियां दीजिए :

11. वह तारीख जब बीमा प्रारम्भ होता है।

मैं/हम गारण्टी देता हूँ/करते हैं कि पूर्वोक्त कथन प्रीर विशिष्टियां सही हैं और मैं/हम आप से निवेदन करता हूँ/करते हैं कि मानक पालिसी के निबन्धनों के अनुमार जिसे मैं/हम स्वीकार करने पर सहमत हूँ/सहमत हैं आप मेरी।हमारी और से भारत सरकार के पास आपात जोखिम (उपक्रम) बीमा करा दें।

मैं/हम इस पर सहमत हूँ/सहमत हैं कि राष्ट्रपति और मेरे/हमारे बीच संविदा का आधार यह आवेदन होगा।

मैं/हम-----पर

+भारतीय स्टेट बैंक

+खजाना

+भारतीय रिजर्व बैंक

मैं संदर्भ..... रु० का तारीख.....
का चालन संलग्न करता हूँ/करते हैं।

स्थान..... आवेदक के हस्ताक्षर

तारीख.....

(+जो लागू न हो उसे काट दीजिए)

अभिस्वीकृति

आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971

(1971 का)

..... से, आवेदन संलग्नाक तारीख
..... पर

*खजाना

(*जो लागू न हो, उसे काट दीजिए)

पहली अनुसूची का टिप्पण :

जब बीमा की जाने वाली सम्पत्ति अन्देशीय जलयान है तब:

(क) आवेदन के प्रस्तुत में "बीमा की जाने वाली सम्पत्ति का वर्णन" प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात् :—

बीमा की जाने वाली सम्पत्ति का वर्णन

मद सं०	परिस्त्रीकृत सं०	जलयान का वर्णन	(क)	(१)	(ग)
1	2	3	4	5	6
नाम या पहचन का चिन्ह	परिस्त्रीकृत सं०	शशीनरी और फिटि संग्रह प्रयोग के सहित (यदि कोई हो) लिए उकान प्रयोग किया जाता है।	मशीनरी और फिटि संग्रह प्रयोग के सहित जलयान का मूल्य	ईधन और कर्मांदिल के उपयोग के सामान का मूल्य	(क) और (ख) का कुल मूल्य

(ख) मूल अवयवा अनुपूरक पालिसी के लिए आवेदन के प्रूफों में, निम्नलिखित प्रविष्टियों के स्थान पर

दूसरी अनुसूची

(वैरा 13 देविंग)

(क) भवन..... रुपए.....

भारत सरकार

(ख) संयंत्र, शशीनरी और सामग्रियां.....
रुपए.....

आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971

(ग) अन्य सम्पत्तियां (ब्योरे दें) रुपए.....
कुल रुपए.....

(1971 का अधिनियम सं०)

पालिसी सं०..... को अनुपूरक

जहाँ कहीं वे आई हों, निम्नलिखित प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात् :—

पालिसी सं०.....

(क) अन्देशीय जलयान (जहाज का ढांचा शशीनरी और उसके फिटिंग्स सहित) रुपए....

इस अधिनियम के अधीन बीमायोग्य सम्पत्ति विषयक बीमा पालिसी।

(ख) ईधन और कर्मांदिल के उपयोग के लिए सामान।

रुपए.....

कुल रुपए.....

यह पालिसी और उसके विनिर्देश (जो इस पालिसी के अनियन्त्रित अंग हैं) एक संत्रिदा के रूप में एक साथ पड़े जाएंगे और जिन शब्दों और पदों को, विनिर्देश में विनिर्दिष्ट अर्थ दिए गए हैं, उनके जहाँ कहीं वे आए हों वे ही अर्थ होंगे।

विनिर्देश

राष्ट्रपति	भारत का राष्ट्रपति
सरकारी अधिकारी.....	
बीमाकृत.....	
पता.....	
बीमाकृत का कारबाह.....	
बीमाकृत सम्पत्ति	
बीमाकृत सम्पत्ति का वर्णन और स्थान.....	
राशि जिसके लिए बीमा किया गया है :	
(क) भवन रूपये	
(ख) संयंक्र, मशीनरी और सम्पत्तियाँ रूपये	
(ग) अन्य सम्पत्तियाँ (व्योरा दें) रूपये	
कुल रूपये	

बीमा की अवधि :

.....19 के दिन से	
.....19 के दिन तक
प्रियमियम रूपये जो पर 19..... के दिन खजाना/भारतीय रिजर्व बैंक/भारतीय स्टेट बैंक में दिया गया ।	

यतः बीमाकृत व्यक्ति ने बीमे के लिए एक हस्ताक्षरित आवेदन किया है और सरकारी अधिकारी के पास भेजा है, फिर सके बारे में वह इस बात पर सहमत हो गया है कि वह इस पालिसी का आधार होगा और पूर्वोक्त प्रीमियम को रुपम का संदाय उसने कर दिया है।

अब यह पालिसी इस बात का साक्ष्य है कि बीमाकृत द्वारा उक्त प्रमियम का राष्ट्रपति को संदाय किये जाने के प्रतिकल स्वरूप राष्ट्रपति [आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971, जिसे इसके पश्चात् "अधिनियम" कहा गया है, और उसके अधीन बनाई गई स्कीम के उपबन्धों और इसमें अन्तर्विष्ट शर्तों के अधीन, जो शर्तें, जहां तक उनकी अपनी अपनी प्रकृति को छान में रखते हुए संभव हो, इस ने अधीन वसूली करने के बीमाकृत के अधिकार की पुरोमात्र शर्तें समझी जायेंगी] इस बात पर सहमत हैं कि यदि बैंकों की अवधि के दौरान, जिसका उल्लेख ऊपर किया गया है, बीमाकृत सम्पत्ति अथवा ऐसी सम्पत्ति के किसी भाग को इस प्रकार की कोई हानि होगी तुक्सान होगा जैसा कि अधिनियम में तरसमय यथानिभावित "आपात जोखिम" पद में समाविष्ट किसी कार्य द्वारा कारित हानि या तुक्सान है, तो राष्ट्रपति उस हानि या तुक्सान द्वारा कारित मूल्य में कभी लेखे बीमाकृत को वहां तक क्षतिपूर्ति करेगा जहां तक कि अधिनियम द्वारा या उसके अधीन उपबन्धित है।

जिसके साक्ष्य स्वरूप मैंने, जो इस निमित सम्यक् रूप से प्राधिकृत हूँ, राष्ट्रपति के लिए और उनकी ओर से अपने हस्ताक्षर किये हैं।

अज 19.... के के दिन राष्ट्रपति के लिए और उनकी ओर से हस्ताक्षरित.....

शर्तें

राष्ट्रपति, बीमा की किसी ऐसी पालिसी के अधीन, जिसे ये शर्तें लागू हैं, (जिसे इसमें इसके पश्चात् "पालिसी" कहा गया है) यदि और जहां तक कि बीमाकृत, अधिनियम के अधीन बीमाकृत सम्पत्ति की बाबत उसके द्वारा बीमाकृत राशि के लिए बीमाकृत, किये जाने का हकदार नहीं है, किसी दायित्व के अधीन नहीं होगे ।

2. पालिसी के अधीन राष्ट्रपति का दायित्व, उसके द्वारा बीमाकृत राशि के कुल अस्सी प्रतिशत से अधिक नहीं होगा, और कोई हानि या तुक्सान होने के पश्चात्, पालिसी द्वारा बीमाकृत राशि के बारे में यह समझा जायेगा कि वह उत रुप गई है जितनी कि उस हानि या तुक्सान की रकम है और ऐसा होने पर राष्ट्रपति का दायित्व वही दुर्ई राशि के अस्सी प्रतिशत तक सीमित होगा ।

3. बीमाकृत पर, प्रत्येक दावे की बाबत हानि या तुक्सान का बीस प्रतिशत भार होगा ।

4. यदि कोई हानि या तुक्सान होने के समय इस पालिसी द्वारा बीमाकृत राशि,

- (क) हानि या तुक्सान के समय सम्पत्ति के कुल मूल्य या
- (ख) बैंकों के प्रारम्भ की तारीख को सम्पत्ति के कुल मूल्य, दोनों में से जो कम हो उससे कम हो,

तो, बीमाकृत के सम्बन्ध में समझा जायेगा कि वह हानि के आनुपातिक भाग के अपने सहन करने के प्रयोजन के लिए इस अधिक्षम ले, और बीमाकृत राशि के बीस प्रतिशत लेखे स्वयं अपना बीमाकृत है ।

5. यदि हानि या तुक्सान होने के समय, बीमाकृत द्वारा या उसकी ओर से कराया गया कोई अ य बीमा हो, जिसके द्वारा उस हानि या तुक्सान से प्रभावित होने वाली किसी सम्पत्ति के लिए आपात जोखिमों के विरुद्ध व्यवस्था की गई हो, तो पालिसी के अधीन राष्ट्रपति का दायित्व ऐसी हानि या तुक्सान के उसके आनुपातिक भाग के अस्सी प्रतिशत तक सीमित होगा ।

6. बीमाकृत राष्ट्रपति के अनुरोध और खर्च पर ऐसे सभी कार्य और बातें करेगा और किये जाने पर सहमत होगा तथा किये जाने देगा, जिनकी अपेक्षा, किन्तु अधिकारों और उपचारों को प्रवृत्त करने के, प्रयोजन के लिए, जिन के लिए राष्ट्रपति, किसी तुक्सान के लिए संदाय करने या उसकी पूर्ति करने पर, हकदार या प्रत्यासीन हैं या हो जायेगा, राष्ट्रपति द्वारा युक्तियुक्त रूप से को जाए, चाहे फिर ऐसे कार्य और बातों की अपेक्षा राष्ट्रपति द्वारा उस क्षतिपूर्ति के पूर्व या पश्चात् की गई हो ।

7. कोई हानि या तुक्सान होने पर, बीमाकृत सरकारी अधिकारी को उसकी लिखित सूचना तत्काल देगा और ऐसी हानि

या नुकसान के पश्चात् पन्द्रह दिन या इतने और समय के अन्दर जितना सरकारी अभिकर्ता लिखित रूप से अनुशास करे, स्वयं अपने व्यय पर, सरकारी अभिकर्ता को एक लिखित दावा देगा जिसमें वीमे के प्रारम्भ की तारीख को या उस तारीख को जब हानि या नुकसान हुआ है, प्रचलित मूल्यों और कीमतों के आधार पर, उस हानि या नुकसान से प्रभावित सम्पत्ति की विभिन्न मर्दों या धंशों के मूल्यों में से जो भी कम हो, उस ध्यान में रखते हुए, उनका या ऐसी हानि या नुकसान के परिमाण का इतना विशिष्ट लेखा-जोखा, जितना साध्य हो, बीमाकृत सम्पत्ति में बीमाकृत से भिन्न किसी व्यक्ति के हित के व्यारे और बीमाकृत सम्पत्ति पर किन्हीं अन्य वीमों के बारे के सहित दिया गया हो। बीमाकृत दावे की बाबत सब ऐसे सबूत और जानकारी भी जो युक्तियुक्त रूप में अपेक्षित हों, दावे की ओर उससे सम्बन्धित किन्हीं मामलों की सत्यता की शपथपत्र द्वारा सत्यापित घोषणा के सहित (यदि मारी जाए) सरकारी अभिकर्ता को देगा। पालिसी के अधीन कोई भी दावा तब तक सदैय नहीं होगा, जब तक इस शर्त के निबन्धनों का अनुपालन नहीं किया जाता।

8. यदि दावा किसी भी दृष्टि से कपटपूर्ण हो, या यदि इस पालिसी के अधीन कोई फायदा अभिप्राप्त करने के लिए, बीमाकृत या उसकी ओर से कार्य करने वाले किसी व्यक्ति द्वारा किन्हीं कपटपूर्ण साधनों या युक्तियों का प्रयोग किया गया हो, या यदि बीमाकृत के जानबूझ कर किये गये कार्य या उसकी मौतानुकूलता से कोई हानि या नुकसान हुआ हो तो, पालिसी के अधीन सब फायदे समपहुत हो जायेंगे :

परन्तु हानि या नुकसान चाहे बीमाकृत के जानबूझ कर किये गए कार्य और उसकी मौतानुकूलता के कारण ही क्यों न हुआ हो, पालिसी के अधीन फायदे उस दशा में समपहुत नहीं होंगे, जिसमें जानबूझ कर किया गया कार्य उचित प्राधिकारी के आदेशों के अधीन किया गया है या जब बीमाकृत कुछ अध्युपायों के किये जाने की अनुमा उचित प्राधिकारी के आदेशों के अधीन देता है और यदि कोई प्रश्न इस बारे में उठता है कि क्या पूर्वोक्त किस्म का कोई कार्य उचित प्राधिकारी के आदेश के अधीन किया गया है, तो इस बात का विनिश्चय केन्द्रीय सरकार करेगी और ऐसा विनिश्चय अंतिम होगा तथा बीमाकृत पर पूर्णतः आबद्धकर होगा।

9. ऐसी कोई हानि या नुकसान होने पर जिसकी बाबत पालिसी के अधीन दावा किया गया है या किया जा सकता है सरकारी अभिकर्ता और सरकारी अभिकर्ता द्वारा प्राधिकृत हर व्यक्ति, एतद्वारा कोई दायित्व उपगत किये बिना और पालिसी की किन्हीं शर्तों पर निर्भर रहने के राष्ट्रपति के अधिकारी में कोई कमी किये बिना, ऐसे किसी भवन या परिसर में जहां हानि या नुकसान हुआ हो, प्रवेश कर सकेगा, उसे कब्जे में ले सकेगा या उस पर कब्जा रख सकेगा या किसी भी बीमाकृत सम्पत्ति को कब्जे में ले सकेगा या उनका परिदान अपने को करने की अपेक्षा कर सकेगा, और ऐसी सम्पत्ति को कब्जे में रख सकेगा और उसका व्यवहार सब युक्तियुक्त प्रयोजनों के लिए तथा किसी भी युक्तियुक्त रीति में कर सकेगा। यह शर्त ऐसा करने के लिए राष्ट्रपति के

पक्ष में बीमाकृत की इजाजत और अनुमति का साध्य होगी। यदि बीमाकृत या उसकी ओर से कार्य करने वाला कोई व्यक्ति राष्ट्रपति की अपेक्षाओं का अनुपालन नहीं करेगा या पूर्वोक्त कार्यों में से कोई भी कार्य करने में राष्ट्रपति या उनकी ओर से कार्य करने वाले किसी व्यक्ति को प्रतिवादित या बाधित करेगा तो, इस पालिसी के अधीन सभी फायदे समपहुत हो जायेंगे। बीमाकृत किसी भी दशा में किसी भी सम्पत्ति का, चाहे वह राष्ट्रपति द्वारा कब्जे में ली गई हो या नहीं, राष्ट्रपति के पक्ष में परित्याग करने का हकदार नहीं होगा।

10. पालिसी की बाबत प्रीमियम का कोई भी प्रतिदाय, आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का) द्वारा या उसके अधीन यथा उपबंधित के विवाय अनुज्ञात नहीं किया जायेगा।

11. हित के अन्तरण की दशा में, यह पालिसी समनुदृश्य की जा सकेगी किन्तु ऐसा समनुदेशन तभी तक प्रभागी नहीं होगा जब तक राष्ट्रपति को समनुदेशन की सूचना नहीं दी जाती।

12. बीमाकृत, बीमाकृत सम्पत्ति की प्रकृति को ध्यान में रखते हुए, उसकी सुरक्षा के लिए सम्यक पूर्विधानियां सभी समयों पर बरतेगा और विशिष्टतया यदि किसी बीमाकृत सम्पत्ति को किसी भी समय आपात जोखिमों के कारण नुकसान होता है तो, बीमाकृत, बीमाकृत सम्पत्ति का, यथास्थिति, नुकसान या और अधिक नुकसान से परिरक्षण करने के लिए सभी पुरितुम कदम उठायेगा।

13. यदि बीमाकृत व्यक्ति ने पालिसी द्वारा किये गये बोमा के लिए अपने आवेदन में बीमाकृत सम्पत्ति के मूल्य के बारे में सांगय कोई तात्पर्य अप्रकथन किया हो तो, पालिसी के अधीन सभी फायदे समपहुत हो जायेंगे।

14. यदि बीमाकृत व्यक्ति आपात जोखिमों से होते वाले हानि या नुकसान से सम्पत्ति को रक्षा के लिए, केंद्रीय सरकार के प्राधिकार के अधीन बनाये गये किन्हीं विनियमों और जारी किये गये किन्हीं अनुदेशों का अनुगत्तन नहीं करेगा, तो पालिसी के अधीन सभी फायदे समपहुत हो जायेंगे।

15. यह रक्म जिसकी व्यवस्था बीमाकृत ने अवधारण के लिए की हो और जो बीमाकृत के वार्षिक लेखा में दर्ज की गई हो, घटित होने वाली किसी भी हानि या नुकसान को तभी करने में, जहां तक राष्ट्रपति या बीमाकृत में से किसी का भी सम्बन्ध है, अन्तिम और निश्चायक नहीं मानी जायेगी।

16. यदि राष्ट्रपति बीमाकृत सम्पत्ति के प्रत्यावर्त्तन का अस्ती प्रतिशत खर्च देना पसन्द करते हैं तो बीमाकृत, ऐसे सभी रेकॉर्ड, वस्तावें, पुस्तकें और जानकारी, जिनको राष्ट्रपति युक्तियुक्त रूप से ओक्शा करे, स्वयं अपने खर्च पर प्रस्तुत करेगा और राष्ट्रपति को देगा। राष्ट्रपति यथावत या समूर्ण प्रत्यावर्त्तन की नहीं वरन् ऐसे प्रत्यावर्त्तन का खर्च देने के लिए आवश्यक होंगे जैसा कि उन परिस्थितियों में किया जा सकता हो या युक्तियुक्त रूप से पर्याप्त हो और किसी भी दशा में, बीमाकृत सम्पत्ति को

बाबत, उसकी बीमाकृत राशि के अस्ती प्रतिशत से अधिक व्यव करने के लिए आबद्ध नहीं होंगे।

17. यदि राष्ट्रपति बीमाकृत सम्पत्ति के प्रत्यावर्तन का अस्ती प्रतिशत खर्च देना पसन्द करते हैं तो बीमाकृत राष्ट्रपति द्वारा ऐसी अपेक्षा किये जाने पर सम्पत्ति को पुनः सविर्मित करेगा या सम्पत्ति को हटा कर ऐसे अन्य स्थान पर ले जायेगा तथा उसका पुनः सविर्माण करेगा जिसे राष्ट्रपति ने विनिर्दिष्ट किया हो, जिस दशा में सम्पत्ति का वह भाग हटाने और आवश्यक हो तो उसको स्थान पूर्ति करने के खर्च के लिए, जिस पर हानि या नुकसान का प्रभाव न पड़ा हो, बीमाकृत को प्रतिकर दिया जायेगा।

18. निम्नलिखित शर्त, बीमाकृत के अनुरोध पर, पालिसी में सम्मिलित की जा सकेगी :—

“एतद्वारा यह करार और वोषित किया जाता है कि....., जहाँ तक कि बीमाकृत सम्पत्ति में उनका हित है, बीमाकृत को इसके द्वारा दिये गये अधिकारों के हकदार बीमाकृत के साथ संयुक्त रूप से होंगे, परन्तु इस प्रकार नहीं जिससे इस पालिसी के अधीन बीमाकृत के अधिकारों के अनिरिक्त या उनसे और बड़े अधिकार उन्हें प्रदान किये जायें।”

19. बीमाकृत द्वारा इस निमित्त आवेदन किये जाने पर पालिसी ऐसे प्रलूप में किये गये नवीकरण पृष्ठांकन द्वारा नशेहत की जा सकेगी जो स्कोम की द्वितीय अनुसूची के भाग ख में विनिर्दिष्ट है और ऐसे नवीकरण पर पालिसी, उस अवधि के लिए, जिसके लिए इसे नवीकृत किया गया है, विधिमान्य होगी और उन्होंने निवन्धनों और शर्तों के अधीन होगी, जो इसमें विनिर्दिष्ट है।

सम्पत्ति का विवरण

मद संख्या नाम जलयान का विवरण और सं० या पहचान का विव० प्रयोजन जिसके लिए उनका प्रयोग किया जाता है।

(क)	(ब)	(ग)
मशीनरी और फिटिंग सहित (यदि कोई है) जलयान का प्रयोग के लिए भंडार मूल्य रु०	ईंधन और कर्मीदल के प्रयोग के लिए भंडार का मूल्य रु०	(क) और (ख) का कुल मूल्य

(ख) पालिसी के प्रलूप में और पृष्ठांकन के प्रलूप में, निम्नलिखित प्रविष्टियों के स्थान पर, जहाँ भी हों,
“(क) भवन.....रुपये
(ख) संयंक्ष, मशीनरी और सामग्रियांरुपये.....
(ग) अन्य सम्पत्तियां (अद्वैत)रुपये
कुल रुपये

भाग ख पृष्ठांकन प्रलूप
पृष्ठांकन सं०
पालिसी सं० का पृष्ठांकन
राशि जिसके लिए बीमाकृत हैं
(1) भवन (2) संयंक्ष और मशीनरी तथा सामग्रियां (3) अन्य सम्पत्तियां (अद्वैत)
बीमाकृत का नामपर

ख जाने

भारतीय रिजर्व बैंक

भारतीय राज्य बैंक

में 19..... के दिन रु० के प्रोमियम का संशय, बीमाकृत द्वारा किये जाने के प्रतिनिधित्व स्वरूप इस में को पातिसो को प्रारम्भ और को समाप्त होने वाली आगामी नियाई/अवधि के लिए एतद्वारा उन्होंने निवन्धनों और शर्तों पर जो इसमें सनिर्दिष्ट हैं नशेहत को जाती है।

द्वितीय अनुच्छेद का दिव्यग :—

जब बीमा की जाने वालों सम्पत्ति अन्तर्देशीय जनग्राम है तब :—

(क) पालिसी के प्रलूप में “बीमाकृत सम्पत्ति का विवरण और स्थान” प्रविष्टि के स्थान पर “बीमाकृत सम्पत्ति का विवरण” प्रविष्टि प्रतिस्थापित को जायेगो और उसके प्रविष्टि के बीच लम्भों वाले निम्नलिखित शोर्खर अन्तःस्वामित्व किये जायेगे :—

ये प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् —

“(क) अन्तर्देशीय जलयान (जहाज का ढांचा मशीनरी और उसकी फिटिंग सहित).....रुपये.....

(ख) ईंधन और कर्मीदल के प्रयोग के लिए भंडार.....

रुपये

कुल रुपये

तीव्री प्रतिकृति
(पैरा 18 देखिए)

जब केन्द्रीय सरकार द्वारा इस निमित्त प्राधिकृत किसी अधिकारी के पास यह विश्वास करने का कारण है कि किसी क्षेत्र के अन्दर जिसमें कार्रवाई करने के लिए वह प्राधिकृत है प्रधिनियम के अधीन बीमायोग्य किसी सम्पत्ति के स्वामी या अधिभोगी ने अधिनियम या स्कोम द्वारा यथा अपेक्षित बीमा या अपेक्षित पूरी रकम का बीमा नहीं कराया है या अपेक्षित या स्कोम के अधीन बीमा की पानिसी के लिए आवेदन करने के पश्चात् अधिनियम के अधीन संदेश किसी भिन्नियम का संदाय नहीं किया है और ऐसी किसी राशि के प्रोमियम के रूप में संदाय से, जो ऐसी अप्रकल्पित है होती तो उसे देनी पड़ती, तदद्वारा अपवर्चन किया है, तब अधिकारी ऐसे स्वामी या अधिभोगी से () इस निमित्त विनिर्दिष्ट तारीख को और समय तथा स्थान पर इस बात का हेतुक दर्शन करने को, कि उसे सम्पत्ति का अधिनियम द्वारा यथा अपेक्षित बीमा या अपेक्षित पूरी रकम का बीमा क्यों नहीं कराया और इसके अतिरिक्त () अपने मामले के समर्थन में कोई दस्तावेज या अन्य साक्ष्य ऐसी तारीख को अधिकारी के समक्ष पेश करने की अपेक्षा करने वाली सूचना उस पर तामील कर सकेगा ।

2. अधिकारी, हेतुक दर्शन किये जाने पर और हेतुक के समर्थन में सुनवाई का अवसर व्यतिक्रमी को देने के पश्चात्, सम्पत्ति का बीमायोग्य मूल्य निर्धारित करेगा और उस प्रीमियम की रकम, यदि कोई हो, जिसके संदाय का व्यतिक्रमी द्वारा अपवर्चन किया गया है, ऐसे निर्धारण के आधार पर अवधारित करेगा । ऐसा करने में अधिकारी ऐसी जानकारी पर, जो उसने द्वारा 8 के अनुसार प्राप्त की हो, व्यतिक्रमी को उसका स्पष्टीकरण देने का अवसर देने के पश्चात्, विचार करेगा ।

3. यदि कोई स्वामी या अधिकारी इस अनुसूची के पैरा 1 के अधीन जारी की गई सूचना के उत्तर में हेतुक दर्शन नहीं करता है तो, अधिकारी सम्पत्ति का बीम योग्य मूल्य ऐसी सामग्री के आधार पर, जो उसे उपलब्ध हो, निर्धारित करेगा और उस प्रीमियम की रकम, जिसके संदाय का व्यतिक्रमी द्वारा अपवर्चन किया गया है, ऐसे निर्धारण के आधार पर अवधारित करेगा ।

4. जब कोई राशि, इस अनुसूची के पैरा 3 या पैरा 4 के अनुसार अवधारित की गई है तो अधिकारी, व्यतिक्रमी को, स्वयं द्वारा सम्यक रूप से प्रमाणित अपने अभिलिखित निर्धारण और अवधारण की प्रति भेजेगा और (i) उसके द्वारा संदेश रकम, (ii) वह तारीख जिसके अन्दर इसे मंदत्त किया जायेगा और (iii) वह खजाना जिसमें इसे संदत्त किया जायेगा, विनिर्दिष्ट करने वाली मांग की सूचना उस पर तामील करेगा ।

5. कोई व्यक्ति, जिसके विरुद्ध इस अनुसूची के पैरा 2 या 3 के अनुसार निरधारण अर्थात् अवधारण किया गया है, मांग की सूचना की प्राप्ति की तारीख से तीस दिन के अन्दर भारत सरकार के विस मंत्रालय राजस्व और बीमा विभाग, को अपील कर सकेगा ।

6. जब निर्धारण और अवधारण एक से अधिक व्यक्तियों के विरुद्ध उसी सम्पत्ति के बारे में किया जाया है तब अपील करने वाला हर व्यक्ति पृथक् पृथक् और अपने नाम से ऐसा करेगा ।

7. ऊर वाले पैरा 5 या 6 के अधीन अपील में वे सब तात्त्विक कथन और तर्क होंगे, जिन पर अपीलार्थी निर्भर करता है । ऐसी अपील अपीलार्थी पर तामील को गई मांग की सूचना की प्रति के साथ और उस प्राधिकारी की मार्फत भेजो जाएगी, जिसके आदेश के विरुद्ध अपील की गई है ।

8. अपील प्राधिकारी इस बात पर विचार करेगा कि :—

(क) क्या वे तथ्य जिन पर मांग की सूचना आधारित थीं सिद्ध हो गए हैं, और

(ख) क्या वह राशि जो संदेश राशि के रूप में अवधारित है, अत्यविक, पर्याप्त या अपर्याप्त है और इस प्रकार विचार करने के बाद ऐसा आदेश पास करेगा जैसा वह उचित समान है । किन्तु अपीलार्थी द्वारा संदेश रकम के रूप में अवधारित रकम को बढ़ाने वाले कोई भी आदेश, उन आधारों की सूचना जिन पर ऐसा आदेश पास होने के लिए प्रस्थानित है, और ऐसे आदेश के विरुद्ध हेतुक दर्शन करने का अवसर उसे प्राप्ति दिए बिना, पास नहीं किया जाएगा ।

चौथी अनुसूची

(पैरा 18 देखिए)

भारत सरकार

आगत जोखिम (सम्पत्ति) बीमा अधिनियम, 1971 (1971 का) अधिनियम के अधीन दावों का विवरण

..... पर
सरकारी अधिकर्ता की मार्फत
..... हम (ता) के
एतद्वारा सत्यनिष्ठापूर्वक घोषित करना है कि
19 के दिन
भारतीय मानक समायानुसार पूर्वान्ह अपरान्ह, बजे
या उसके लाभग वह स्पति जो उस पालिसी या उन पालिसियों के
अधीन नियमों द्वारा दिये जायें उपायद्वारा अनुसूची के में दिया
गया है बीम कृत थी, उस घटना में जो आपात जोखिम (उपक्रम)
बीमा अधिनियम, 1971 (1971 का) द्वारा यथा
परिभावित "आगत जोखिम" पद में समाविष्ट है नष्ट हो गई थी
या उसे नुकसान हुआ था । उस घटना के वास्तवक व्यौरे (वह
रीति जिसमें नुकसान हुआ) नीचे दिये गए हैं :—

.....
.....
मैं हम सत्यनिष्ठापूर्वक यह और घोषित करता हूँ करते हैं कि
उक्त हानि या नुकसान के समय उक्त पालिसी या पालिसियों में

यथा वर्णित सम्पत्ति का वास्तविक मूल्य..... ८० या जिसका और भी विभिन्न वर्णन उपाबद्ध अनुसूची ख में दिया गया है और यह कि मेरे हमारे अलावा को छोड़कर किसी भी व्यक्ति का कोई हित उक्त सम्पत्ति में नहीं है।

अतः मैं हम ८० की राशि का दावा जिस का व्यौरा इसमें उपाबद्ध अनुसूची ग में दिया गया है भारत सरकार से करना है करते हैं और मैं हम सत्यनिष्ठा पूर्वक घोषित करता है कि दावों का यह विवरण उस हानि का सही और यथार्थ विवरण है जो मुझे हमें दुआ है और जिसमें किसी किस्म का लाभ सम्मिलित नहीं है।

आज 19..... के के
दिन मेरे समक्ष घोषित किया गया और पहचान
द्वारा की गयी, जिसे मैं व्यक्तिगत रूप से जानता हूँ.....

हस्ताक्षर

न्यायालय मुद्रा

[मजिस्ट्रेट]

अनुसूची ख

हानि या नुकसान की तारीख को प्रदूत पालिसियों का विवरण

पालिसी संख्यांक (1)	जारी करने की तारीख (2)	बीमाकृत राशि (3)	पालिसी में यथा वर्णित बीमाकृत सम्पत्ति (4)
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अनुसूची ग

प्रधिनियम के अधीन बीमाकृत सम्पत्ति का विवरण

सम्पत्ति का वर्णन (1)	सम्पत्ति का उचित मूल्य (2)	सम्पत्ति का स्थान (3)
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अनुसूची ग

हानि या नुकसान का विवरण

उस सम्पत्ति का वर्णन जिसको नुस्कान हुआ या जो नष्ट हुई (1)	उचित मूल्य (2)	बचाई हुई सम्पत्ति का मूल्य (3)	वास्तविक मूल्य (4)	नियम सरकार द्वारा दी जाने वाली रकम— (5)
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निर्धारक का प्रश्नणपत्र

मैं/हम _____, जो आपात जोखिम (उपक्रम) बीमा स्कीम के पैरा 18(2) के अधीन सम्यक रूप से नियुक्त निर्धारक हूं/हैं, यह प्रमाणित करता हूं/करते हैं कि हानि या नुकसान के स्थान की अपने द्वारा सावधानी के माथ की गई परीक्षा से नांग बहियों, इम्तावेजों, बीजकों और अन्य मालय को पेश कराने से, मैंने/हमने अपना समाधान कर लिया है कि सम्पत्ति, हानि या नुकसान के समय पूरी तरह से बीमाकृत थी, और दावे का विवरण, जिसका ब्यौरा इसमें (और हमारी संलग्न रिपोर्ट में) दिया गया है, आपात जोखिम मात्र के प्रत्यक्ष परिणामस्वरूप हुई वास्तविक हानि का सही और उचित विवरण है।

निर्धारण में लिया गया समय

फीस _____ रु०

हानि निर्धारक के हस्ताक्षर

पता

तारीख

सरकारी अभिकर्ता की सिफारिश

हम प्रमाणित करते हैं कि दावा, जिसका ब्यौरा दावे के इस विवरण में दिया गया है बीमा पालिसी की शर्त 7 के अनुसार हमें प्राप्त हुआ था, यह कि अनुसूची के में अन्तिविष्ट प्रदूत बीमों का विवरण सही विवरण है, यह कि हमने दावेदारों के हक का अन्वेषक किया है, और हम सिफारिश करते हैं कि (i) (संलग्न रिपोर्ट में जैसा कथित है उसे छोड़ कर) _____रूपए की राशि हानि के पूर्ण और अन्तिम निपटारे के रूप में संदत्त की जाए, (ii) _____अर्ह (iii) यह कि _____रूपए की राशि निर्धारक को उसकी फीस और व्यय की बाबत संदत्त की जाए।

सरकारी अभिकर्ता के हस्ताक्षर

तारीख

‘मामले को निपटाने के लिए सरकार के आदेश

‘यदि कोई पूर्थक रिपोर्ट न हो तो काट दिया जाए और उस पर आदाक्षर किए जायें।

पांचवीं अनुसूची

(पैरा 18 देखें)

भारत सरकार

आपात जोखिम (उपक्रम बीमा अधिनियम, 1971 का)

दावों की प्राप्ति

दावा सं०

आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का) में यथा परिभाषित आपात जोखिम से होने

वाली हानि या नुकसान लेवे, जो 19 _____ की/के _____ के _____ दिन हुआ, उक्त अधिनियम के अधीन जारी की गई पालिसी/पालिसियां सं० _____ के अधीन सरकार पर दावे की _____ किस्त के रूप में, सब दावों के पूर्ण उन्मोचन स्वरूप, _____ रूपए की राशि, पैरा 19 _____ की/के _____ दिन भारत सरकार से प्राप्त हुई, जिसके परिणामस्वरूप इस पालिसी द्वारा बीमाकृत रकम में _____ रु० को कमी हो गई है।

दावदार के हस्ताक्षर

स्टाम्प

छठी अनुसूची

(पैरा 21 देखें)

19 _____ को समाप्त होने वाले वर्ष के दौरान आपात जोखिम (उपक्रम) बीमा निधि में प्राप्त और उसमें से संदत्त राशियों का लेखा।

पावतियां

व्यय

रकम _____ के रकम _____ के अन्त तक पावतियों की अन्त तक व्यय ही प्रगति प्रगति

रु० न० प० _____ रु० न० प० _____ रु० न० प०
रु० न० प०

1. बीमे का प्रीमियम

1. सरकारी अभिकर्ता का पारिश्रमिक और व्यय, और प्ररूपों का खर्च

2. धारा 7(3) के अधीन भारत की संचित निधि से अभिदाय

आपात जोखिम (उपक्रम) बीमा स्कीम के अधीन देनेगियों और स्कीम के अधीन नियुक्त हानि निर्धारिकों के पारिश्रमिकों और व्ययों के संदाय

रकम _____ के अन्त तक पावतियों की प्रगति

रकम _____ के अस्त तक व्यय की प्रगति

रु० न० प० _____ रु० न० प० _____ रु० न० प०
रु० न० प०

3 प्रकीर्ण पावतियां

3. धारा 10 के अधीन संदाय, जब कि बीमाकृत सम्पत्ति को हटाकर ले जाया जाना और अन्य स्थान में पुनः संश्रित किया जाना अपेक्षित है।

4. अधिनियम की धारा 16 के अधीन प्रीमियम का प्रतिदाय
5. धारा 7(3) के अधीन किए गए ग्रंथिदायों का पुनर्मदाय
6. प्रकीर्ण व्यय (यदि आवश्यक हो तो ब्लौरा दें)
7. धारा 7(4) के अनुसार व्ययनित राशियाँ

कुल

सातवीं अनुसूची
(पैरा 6 देखिए)

प्ररूप

एक स्वामी से दूसरे को पालिसी का अन्तरण आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का)

समनुदेशन की नोटिस जो तीन प्रतियों में भरी जाए और रजिस्ट्रीकरण के लिए सरकारी अभिकर्ता के पास भेजी जाए ।

पालिसी सं०

भवन	रुपए
मशीनरी/संयंत्र/सामग्रियाँ	रुपए
अन्य सम्पत्तियाँ (ब्लौरा दें)	रुपए
कुल	रुपए

सम्पत्ति का वर्णन और उसका स्थान

मैं/हम एतद्वारा, ऊपर वर्णित पालिसी में अपने सब अधिकार, हक् तथा हित और तदबीन समस्त फायदे —————— को समनुदेशित करता हूँ/करते हैं ।

तारीख —————— 19

हस्ताक्षर का साक्षी (समनुदेशक के हस्ताक्षर)
मैं/हम —————— के समनुदेशित

समनुदेशितीगण

उपरोक्त समनुदेशन को प्रतिगृहीत करते हुए इस पर सहमत हूँ/हैं कि पालिसी में निर्दिष्ट आवेदन प्ररूप जो उसका आधार है, पालिसी का आधार बना रहेगा ।

हस्ताक्षर वा साक्षी (समनुदेशितीके हस्ताक्षर)
आज —————— के दिन, सरकारी अभिकर्ता के कार्यालय पुस्तकों में रजिस्ट्रीकृत ।

(सरकारी अभिकर्ता का हस्ताक्षर)

टिप्पणी—समनुदेशन की रजिस्ट्री करने से यह नहीं ममका जाएगा कि राष्ट्रपति ने उस विलेख या उन विलेखों के विधिमान्य होने या न होने के बारे में जिनकी सूचना उन्हें प्राप्त होती है कोई राय व्यक्त की है । इस प्ररूप की मूल प्रति समनुदेशित को लौटाई जाने के लिए है । इस प्ररूप की दूसरी प्रति सम्बन्धित लेखा अधिकारी को भेजी जाने के लिए है । इस प्ररूप की तीसरी प्रति सरकारी अभिकर्ता द्वारा प्रतिधारित की जाने के लिए है ।

प्र॒

अधिभोगी का परिवर्तन

आपात जोखिम (उपक्रम) बीमा अधिनियम,

1971 (1971 का)

अधिभोगी के परिवर्तन की सूचना जो तीन प्रतियों में भरी जाने और रजिस्ट्रीकरण के लिए सरकारी अभिकर्ता के पास भेजी जाने के लिए है ।

पालिसी सं०—————

भवन —————— रुपया

मशीनरी/संयंत्र/सामग्रियाँ —————— रुपया

कुल —————— रुपया

सम्पत्ति का वर्णन और उसका स्थान

स्वामी का नाम और पता

मैं/हम एतद्वारा, उपरोक्त पालिसी को प्रवृत्त रखने के विषय में स्वामी के अभिकृता के रूप में कार्य करने के लिए अपने समस्त अधिकार अधिभोगी अर्थात् —————— को समनुदेशित करता हूँ/करते हैं ।

तारीख —————— 19

हस्ताक्षर के साक्षी (अधिभोगी के हस्ताक्षर)

मैं/हम जो नया अधिभोगी/नए अधिभोगी हूँ/हैं उपरोक्त समनुदेशन को प्रतिगृहीत करते हुए इस पर सहमत हूँ/हैं कि पालिसी है कि पालिसी में निर्दिष्ट आवेदन प्ररूप जो उसका आधार है, पालिसी का आधार बना रहेगा ।

(नए अधिभोगी के हस्ताक्षर)

हस्ताक्षर का साक्षी

आज 19 —————— के —————— दिन —————— सरकारी अभिकर्ता के कार्यालय पुस्तकों में रजिस्ट्रीकृत ।

(सरकारी अभिकर्ता के हस्ताक्षर)

टिप्पणी—समनुदेशन की रजिस्ट्री करने में यह नहीं ममका जाएगा कि राष्ट्रपति ने उस विलेख या उन विलेखों के विधिमान्य

होने या न होने के बारे में जिसकी सूचना उन्हें प्राप्त होती है कोई गय व्यक्त की है। रजिस्टीकरण के पश्चात् इस प्रूप की मूल प्रति नए अधिभोगियों को और दूसरी प्रति सम्बन्धित लेखा अधिकारी को भेजी जाएगी तथा तीसरी प्रति गग्कारी अभिकर्ता द्वारा प्रतिशारित की जाएगी।

[सं० फ० 66(4)-आई० एन० I/71-IV]

का० आ० 5485.—आपात जोखिम (माल) बीमा अधिनियम, 1971 (1971 का स० 50) की धारा 3 की उप-धारा (2) द्वारा प्रदत्त गविन्यों का प्रयोग करने द्वारा, केन्द्रीय सरकार एवं द्वारा निर्देश देनी है कि इसमें मंलान अनुसूची में विनिर्दिष्ट वर्गों का माल, धारा 3 की उप-धारा (1) में अन्तिष्ठि किसी बात के होते हुए भी, उक्त अधिनियम के अधीन बीमा योग्य माल नहीं समझा जायेगा :

परन्तु उक्त अनुसूची में की कोई भी बात ऐसे कारबार करने वाले किसी व्यक्ति के सम्बन्ध में, जिसके अनुक्रम में वह पोर्ट का था पोर्टों को चालित करने वाली भौतिकी का सञ्चिमणि करता है या उसकी भरम्मत करता है, उसके द्वारा किसी विशिष्ट पोत या ऐसे पोत के भाग के सञ्चिमणि या भरम्मत के लिए, विनियोजित किसी माल के सम्बन्ध में प्रभावी नहीं होगी।

अनुसूची

1. भाड़ाक्रय करार या करारों के विषय वाला माल, जिसमें या जिसमें भाड़े पर देने वाला ऐसा व्यक्ति है, जो ऐसे भाड़े पर लिए गये वर्णन में माल के विक्रय करने, पटे पर देने या भाड़े पर देने का कारबार नहीं करता और जिसमें या जिसमें, छह मास से अन्यून अवधि तक संदाय के लिए सभग विस्तार का उपबन्ध किया गया है।
2. कोयला (जिसमें अन्धामाइट और केनेल सम्मिलित है) और कोक (पत्थर का कोयला), लिनाइट (चूरा कोयला), चहं ब्रिकेटिट हो या न हो और विनिर्भित ईंधन, जिसका कोयला, कोक या लिनाइट में या संघटक है।
3. लौह अयस्क।
4. रसायनों, विद्युत बैटरियों, मैग्नीज धातु, कांच या मरेमिक के विनिर्माण में प्रयुक्त मैग्नीज अयस्कों के विवाय सभी प्रकार के मैग्नीज अयस्क।
5. ओम अयस्क।
6. एन्यूमिनियम, एटीमोनी, तांबा, सीसा, निकल, जस्ता, स्पेल्टर और टीन के पिघलाने के लिए अयस्क, सांत्र, ड्रास और अवधित्या।
7. सोना, चांदी, प्लैटिनम, पैलेडियम, इरिडियम, रेडियम, ऑस्मियम और रुथीनियम के अयस्क, सोड, पदार्थ, ड्रास और अवधित्या।

8. अन्धक और लवण (सोडियम क्लोराइड) से भिन्न गैस-धातुपादक खनन और खदान उत्पाद, अविनिर्भित।
9. कच्चा और पूर्ण दग्ध मेंसेसाइट।
10. चौनी मिट्टी।
11. कच्चा एस्ट्रेस्टार्ट।
12. सीमेंट, जिसमें एस्ट्रेस्टार्ट सीमेंट और सीमेंट मिलकर (बंगर) सम्मिलित हैं।
13. चूना।
14. ईंट की मिट्टी और चिकनी मिट्टी की ईंटें और खपरेले और रिफेवरी ईंटें, ब्लाकें और खपरेलें।
15. भागतः गोमेंट गों भागतः एस्ट्रेस्टार्ट में बनी चादरें पाइप और ग्रन्थ निर्माण-सामग्रियां।
16. छत बनाने के लिए स्लेटें।
17. ग्रानाई (प्रेनाईट) छनाकें।
18. पत्थर के निम्नलिखित विनिर्माण, अर्थात्,
 - (क) पटरी के लिए कोरदार पत्थर और ईंटें;
 - (ख) प्रणाल।
 - (ग) पटियां और फ्लैग; और
 - (घ) निर्माण प्रयोजनों के लिए विनिर्भित पत्थर।
19. सभी प्रकार के कंकीट उत्पाद।
20. साढ़े छह सौ बोल्टीं तक दाब के लिए उपयुक्त निम्न तनाव वाले इम्यूसेटरें (विद्युतरोधी)।
21. पत्थर के भारी पर्त तान और पाइपें।
22. सिडर, स्केल (पपड़ी) और स्लैग (धातुमल)।
23. पुनः प्राप्त मल ग्रीज़ और मल स्लज़।
24. निम्नलिखित धातुओं और उनकी भि वधातुओं का स्क्रेप, अर्थात्, एल्यूमिनियम, एंटिमोनी, तांबा, सीसा, निकल, टीन, जस्ता और स्पेल्टर।
25. लोहा और इस्पात स्क्रेप।
26. लोहे का मुक्तशेष औक्साइड।
27. श्वेत सीमा स्टैकों और चेम्बरों में सीमा।
28. सभी प्रकार का अनगढ़ा निकल।
29. सिलियर, छड़ों, बिलेटों, तांग-छड़ों, ब्लाकों, पटियों, टिकियों, केंथोड़ों, एनोडों और छड़ों में अनगढ़ा तांबा, चाहे परिष्कृत हो या न हो, और तांबा शॉट।
30. सिलियर, बिलेटों, मिडों, ब्लाकों, टिकियों, छड़ों और पटियों में अनगढ़ा एन्यूमिनियम, एंटिमोनी, सीसा, निकल, टीन, जस्ता और स्पेल्टर।
31. रबों, सिलियर, छड़ों, तारों या चूर्ण में सोना, चांदी, प्लैटिनम, पैलेडियम, इरिडियम, रोडियम, ऑस्मियम और स्थीनियम और इनके मिश्रधातु।

32. निम्नलिखित वर्णनों का लोहा और हस्पात, अर्थात् :—
- (क) कच्चा लोहा;
 - (ख) पूर्ण रूप में भिन्न लोह-मिश्र धातुएं;
 - (ग) सिलियां;
 - (घ) बिलेटे, डले लोहे की छड़े और पटियां;
 - (ङ) टीनप्लेट और चादर छड़;
 - (च) प्लेटें, मध्यम प्लेटें, चाहे मुझे हुई हों या न हों; चादरें मुलम्मा चड़ी हुई और उन चड़ी तुर्ही;
 - (छ) ऐगल (कोण), प्रणल, दुकोने, कड़ियां, पाइलिंग सेक्षन और अन्य सेक्षनीय सामग्री, चाहे गड़ी हुई हो या न हो;
 - (ज) गोल छड़े, छड़े, तार की छड़े, चौकोर, छँ कोनिये, प्लेट और ब्राइट से भिन्न सभी अन्य सेबान और आकारे;
 - (झ) पटियां, स्लीपर-जोड़ पटियां और तल पटियां, टीन पटियां, टर्न पटियां, ब्लैक पटियां और सफेद मुलम्मा चड़ाई पटियां;
 - (ञ) चक्करदार पटियां और पटियां, ब्राइट से भिन्न गर्म या शीत बेलित;
 - (ঠ) बाहसीकीलों और मोटर यानों के संमजन के लिए रखे गये टायरों से भिन्न टायर, धरियां और स्कें प्या उनके फालतू पुर्जे;
 - (ঢ) सांचे में ढली हुई चीजें, गङ्गाहयों के लिए छ्लाके, समीड़न गङ्गाहयों और स्टाम्पों (उसके सिवाय जहां सम्पूर्ण : या भागतः मशीन से बनाये जाते हैं) और समीड़न;
 - (ঢ) कोलरी भहराव और खड़ टैके;
 - (ঢ) पाइपें, मुलम्मा चड़ी हुई और न चड़ी हुई और गर्म परिरूपित दृश्य;
 - (ণ) संरचनाओं के संघटक भागों के रूप में प्लैटों और सेक्षनीय सामग्रियों के समजन।
34. चादरों और बृतों में ऐल्यूमिनियम, पीतल, तांबा और निकल-चांदी तथा पीत धातु।
35. चादरों या ट्यूबों में सोना, चांदी, प्लैटिनम, पैलेडियम, इरिडियम, रेडियम, और स्थीनियम तथा उनकी मिश्र धातुएं, और चादरों, ट्यूबों या तारों के रूप में प्लाई-धातु जिनका उक्त धातुओं में से कोई या उसका कोई मिश्रधातु संघटक है।
36. नैसर्जिक मोती, जड़े हुए हों या न जड़े हुए हों।
37. अन्यबहुमूल्य और कम-मूल्य रँग जड़े हुए न हों, कटे हों या कटे हुए न हों।
38. रत्न-जड़ित जेवर, अर्थात् सोने या प्लैटिनम, पैलेडियम इरिडियम, रोडियम, आस्मियम और रुथीनियम में जड़े हुए बहुमूल्य और कम मूला रत्न।
39. फिटिंग और अलंकरणों के सिवाय सोना, चांदी, प्लैटिनम, पैलेडियम, इरिडियम, रोडियम, आस्मियम और रुथीनियम तथा उनकी मिश्रधातुओं के बने हुए सभी अन्य जेवर या अन्य वस्तुएं।
40. रत्न जड़ित घड़ी खोल।
41. सोने की अशक्तियां और अर्धे अशक्तियां।
42. न जड़े हुए हीरे, चाहे बिना तराशा हो या परिष्कृत हो, और औद्योगिक हीरे, जड़े हुए या न जड़े हुए।
43. कनवास, पेपर बोर्डों या कागज पर तैल या जल रंग, पैसिल, स्याही और काठ-कोयला चित्र-पेस्टल में पेटिंग तथा ब्लाकों, प्लेटों या वैसी ही वस्तु से लिए गये हस्त-मुद्रित चित्र, चाहे फ्रेम किये हुए हों या फ्रेम न किये हुए हों और शिल्प, चाहे ठोस आकृति में हों, उच्चाकृति शलप में हों या नकाशी में हों।
44. लेबल में समूद्रभूत या छाभित या समाविष्ट चिन्हों या निशानों के होने पर, किसी डाक सेवा या सेवाओं को धोतित करने वाले संग्रहण प्रयोजनों के लिए आशयित डाक-स्टाम्प।
45. कला या दस्तकारी के पश्चार्थ, जो सौ वर्ष से कम पुराने न हों।
46. दस प्रतिशत से अधिक सान्द्रता की रेडियम की निम्न-निखित धैर्यिक वस्तुएं, अर्थात् ओमाइड, कार्बोनिट, कलोरोइड और स्लेट।
47. निम्नलिखित प्रकारों की मुद्रण-मशीनरी, अर्थात् टाइप-व्यवस्था, अक्षर-मुद्रण (जिसमें रोटरी और समतल समिलित है), आमलेश्वी, आलोकचित्र और स्टिरिओ टाइपिंग।
48. मुद्रित पुस्तकों जो पचास वर्ष से कम पुराने न हों और हस्तलिपियां।
49. दीवार को सीलन या नमी से सुरक्षित रखने वाली डामर या सीमेंट आदि की परतों और स्लेट पटियों के लिए स्लेट।
50. लोकोपयोगी उपकरणों द्वारा प्रदत्त प्रकार का गैस, ईंधन के रूप में बिक्री की यह अन्य गैसें, और जल तथा विषुल।
51. भारत में किसी पत्तन या किसी जलयान में स्थित किन्हीं माल, जो ऐसे स्थित के दौरान आपात जोखियों के प्रति समुद्री बीमा पालिसी के अन्तर्गत हैं और किन्हीं माल जिनकी बाबत कोई भीमा-पालिसी प्रबृत्त हैं जिसके द्वारा माल का स्वामी आपात जोखियों के प्रति उनकी

बाबत तत्समय बीमाकृत है, परन्तु यदि माल का मूल्य तत्समय अधिक हो जाता है, जिसके लिए वे आपात जोखिमों के प्रति पालिसी के अन्तर्गत हैं जो माल ऐसे अधिक्य के लिए आपात जोखिम (माल) बीमा अधिनियम, 1971 (1971 का 50) के अधीन बीमाकृत होंगे।

52. खादी, और खादी तथा ग्रामोद्योग कमीशन अधिनियम, 1956 (1956 का 61) की धारा (2) के कमशः छंड (घ) और (ज) में यथाप्रिभावित किसी प्रायोद्योग के उत्पाद।
53. किन्हीं धार्मिक या खैराती संस्थाओं द्वारा उत्पादित या विक्री की गई पुस्तकें, पत्रिकाएं, समाचार पत्रों या किन्हीं अन्य वस्तुएँ या माल, जिन्हें आय कर अधिनियम 1961 (1961 का 43) के अधीन किसी विस्तार तक कर के संदाय से छूट दी गई हैं।

[सं० फा० 66 (4)-ग्रा० एन एस I/71]

अ० राजगोपालन,

विशेष कर्त्यरुक्त अधिकारी और पदेन अपर सचिव।

(राजस्व बीमा विभाग)

बीमा

नई दिल्ली, 24 दिसम्बर, 1971

का० आ० 655.—आपात जोखिम (उपक्रम) अधिनियम, 1971 (1971 का 51) की धारा 15 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार एतद्वारा निदेश देती है कि धारा 5 में किसी बात के होते हुये भी, किसी भी ऐसी धार्मिक या पूर्ति संस्था से, जिसे आय कर अधिनियम, 1961 (1961 का 43) के अधीन कर के संदाय से किसी परिणाम तक छूट दे दी गई है, यह अपेक्षा नहीं की जाएगी कि वह अपनी सम्पत्ति का बीमा आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का 51) या उसके अधीन बनाई गई किसी स्कीम के उपबन्धों के अधीन कराये।

2. यह अधिसूचना दिसम्बर, 1971 के 10वें दिन को प्रवृत्त हुई समझी जाएगी।

[सं० फा० 66(4)-बीमा 1/71]

का० आ० 636—आपात जोखिम बीमा (उपक्रम) बीमा अधिनियम, 1971 (1971 का 51) की धारा 15 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार एतद्वारा निदेश देती है कि धारा 5 में किसी बात के होते हुए भी, खादी का उत्पादन करने वाले किसी भी ऐसे वारखाने से, या किसी भी ऐसे जो खादी और ग्रामोद्योग से, आयोग अधिनियम, 1956 (1956 का 61) की धारा 2 के कमशः खण्ड (घ)

और (ज) में परिभाषित हैं, यह अपेक्षा नहीं की जाएगी कि वे आपात सम्पत्ति का बीमा, आपात जोखिम (उपक्रम) बीमा अधिनियम, 1971 (1971 का 51), या उसके अधीन बनाई गई किसी स्कीम के उपबन्धों के अधीन कराएं।

2. यह अधिसूचना दिसम्बर, 1971 के 10वें दिन को प्रवृत्त हुई समझी जाएगी।

[सं० फा० 66(4)-बीमा 1/71]

एम० एल० वधावन, उप सचिव।

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

CUSTOMS

New Delhi, the 15th April 1972

S.O. 968.—In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue & Insurance) No. 61/70-Customs dated the 4th July, 1970, the Central Government hereby appoints Ahmedabad and Jaipur as customs airports for the purpose of—

- (a) The unloading of imported goods, namely, rough precious and semi-precious stones; and
- (b) the loading of export goods, namely:—
 - (i) handicrafts, including handloom and silk manufactures,
 - (ii) cut precious and semi-precious stones, and
 - (iii) jewellery set with precious or semi-precious stones.

[No. 55/72-Customs/No. F.479/5/71-Cus.VII.]

(राजस्व और बीमा विभाग)

सीमा-शुल्क

नई दिल्ली, 15 अप्रैल, 1972

का० आ० 968.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 7 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के वित्त मंत्रालय (राजस्व और बीमा विभाग) की तारीख 4 जुलाई, 1970 की अधिसूचना सं० 61/70—सीमा-शुल्क को अतिथित करते हुए केन्द्रीय सरकार अहमदाबाद और जयपुर को—

- (क) आयात किए गए माल, अर्थात् कोरा बहुमूल्य और अल्पमूल्य रत्न, के उतारने, और :—
- (ख) नियंत्रित माल, अर्थात् :—
 - (i) हस्तशिल्प, जिनके अन्तर्गत हथकर्वा और रेशम के विनिर्माण भी हैं,
 - (ii) तराशे हुए बहुमूल्य और अल्पमूल्य रत्न, और
 - (iii) बहुमूल्य या अल्पमूल्य रत्नों से जड़े आमूषण के चढ़ाने, के प्रयोजन के लिए एतद्वारा

सीमा-शुल्क एमरपोर्टों के रूप में नियत करती है।

[सं० 55/72-सीमा-शुल्क/फा० सं० 479/5/71-सी०श०-7]

S.O. 969.—In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962, (52 of 1962) the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No. 72, dated the 16th August, 1971, namely:—

In the said notification, item 8 shall be omitted.

[No. 56/F. No. 552/225/71-L.C.I.]

का० आ० 969.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 25 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, अपना यह समाधान हो जाने पर कि ऐसा करना लोकहित में आवश्यक है, भारत सरकार के वित्त मंत्रालय (राजस्व और बीमा विभाग) की तारीख 16 अगस्त, 1971 की अधिसूचना सं० 72 में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, मव 8 लुप्त कर दी जाएगी।

[सं० 56/फा० सं० 552/225/71-एत० सी० I]

S.O. 970.—In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962, (52 of 1962) the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts handicrafts, when produced in Nepal and imported into India from Nepal, from the payment of that portion of the duty of customs which is leviable thereon under the First Schedule to the Indian Tariff Act, 1934 (32 of 1934).

[No. 57/F. No. 552/225/71-L.C.I.]

एस० ओ० 970.—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 25 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, अपना यह समाधान हो जाने पर कि ऐसा करना लोकहित में आवश्यक है, ऐसे हस्तशिल्प को, जब वे नेपाल में उत्पादित किया जाएँ और उनका नेपाल से भारत में आयात किया जाए, सीमा-शुल्क के उतने भाग के संदाय से एतद्वारा छूट देती है, जितना भारतीय टेरिफ अधिनियम, 1934 (1934 का 32) की प्रथम अनुसूची के अन्तर्गत उन पर उद्घाटनीय है।

[सं० 57/फा० सं० 552/225/71-एत० सी०-I]

ORDERS STAMPS

New Delhi, the 15th April 1972

S.O. 971.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the stamp duty with which the ad hoc bonds of the value of fifty lakhs of rupees, the to be issued by the Jammu and Kashmir State Financial Corporation, are chargeable under the said Act.

[No. 11/72-Stamps/F. No. 471/17/72-Cus.VII.]

आदेश

स्टाम्प

नई दिल्ली, 15 अप्रैल, 1972

एस० ओ० 971.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उतने स्टाम्प शुल्क से छूट देती है जितना जम्मू और कश्मीर वित्तीय निगम द्वारा जारी किए जाने वाले पचास लाख रुपये के मूल्य के तर्थ बंधपत्रों पर उक्त अधिनियम के अधीन प्रभार्य है।

[सं० 11/72-स्टाम्प/फा० सं० 471/17/72-सीमा शुल्क 7]

S.O. 972.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds to the face value of one crore and ten lakhs of rupees, to be issued by the Kerala State Housing Board, are chargeable under the said Act.

[No. 12/72-Stamps/F. No. 471/18/72-Cus.VII.]

K. SANKARARAMAN, Under Secy.

एस० ओ० 972.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उतने शुल्क से छूट देती है जितना केरल राज्य आवासन बोर्ड द्वारा जारी किए जाने वाले एक करोड़ दस लाख रुपये के अंकित मूल्य के बंधपत्रों पर उक्त अधिनियम के अधीन प्रभार्य है।

[सं० 12/72-स्टाम्प/फा० सं० 471/18/72-सीमा शुल्क-7]

के० शंकररामन, अवर सचिव।

MINISTRY OF PETROLEUM AND CHEMICALS

New Delhi, the 10th March, 1972

S.O. 973.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals (Department of Petroleum) S.O. Nos. 1928 & 3353 dated 7th April, 1971 and 7th August, 1971 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines;

And whereas, the Competent Authority, has under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And, further, whereas, the Central Government has, after considering the said report, decided to acquire the right to user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the said Act, the Central Government hereby declares that the right to user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines;

And, further, in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government

vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

For Laying Gas Distribution Lines to Kalol Industries

STATE : Gujarat

DIST: Mehsana

TALUKA : Kalol

Village	Survey No.	Hectare	Acre	P. Acre.
KALOL	252/209/I	0	5	64
	252/209/I	0	3	60
	252/211	0	0	70
	252/210	0	7	22
	252/241	0	7	32
	252/242	0	9	60
	252/244	0	5	52
	252/243	0	0	84
	252/247	0	18	10
	252/2	0	2	52
	252/3	0	1	84
	363	0	1	70
	364	0	0	20
	362	0	0	40
	366	0	1	30
	448	0	2	01
	449	0	0	51
	446/P	0	0	85
	381/P	0	2	36
	376	0	0	48
	281	0	3	72
	284	0	4	20
	285	0	6	24
	286	0	5	64
	287	0	6	00
ARSODIYA	131	0	4	80
	129	0	8	40
	125/2	0	8	40
	122/P	0	0	72
	122	0	3	48
	121	0	8	52
	Cart Track	0	0	96
	108	0	20	52
	107/2	0	7	32
	107/1	0	14	16
	125/3	0	4	68
SAIJ	239/P	0	6	00
	239/P	0	2	88
	238/2	0	3	60
	Cart track	0	0	72
	221/P	0	0	30
	215/2	0	38	04
	210/P	0	14	40
	210/P	0	17	64
	168	0	3	00
	220	0	5	40
	219	0	5	40

[No. 11(4)/71-Lab&Legis.]

I. M. SAHAI, Dy. Secy.

पैट्रोलियम और रसायन मंत्रालय

(पैट्रोलियम विभाग)

नई दिल्ली, 10 मार्च, 1972

का०आ० 973.—यतः पैट्रोलियम, पाइप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपवाग (1) के अधीन भारत सरकार के पैट्रोलियम तथा रसायन और खान तथा धातु मंत्रालय (पैट्रोलियम विभाग) की अधिसूचना का० आ० मं० 1928 तथा 335 तारीख 7-4-71 तथा 7-8-71 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिये अर्जित करने का अपना आशय घोषित कर दिया था।

और यन्हें मकान प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यत्ते केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यत्ते उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एनद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन, बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और, आगे उस धारा की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी सम्बन्धी से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

कलोल उच्चोग तक गैस वितरण लाइन बिछाने के लिये

राज्य : गुजरात

जिला : महसाना

तालुका : कलोल

गांव	सर्वेक्षण संख्या	हेक्टर	ए० आर० ई०	पी० ए० आर० ई०
कलोल	252/209/1	0	5	64
	252/209/1	0	3	60
	252/211	0	0	70
	272/210	0	7	22
	252/241	0	7	32
	252/242	0	9	60
	252/244	0	5	52
	252/243	0	0	84
	252/247	0	18	10
	252/2	0	2	52
	252/3	0	1	84
	363	0	1	70
	364	0	0	20
	362	0	0	40
	366	0	1	30
	448	0	2	01
	449	0	0	51
	446/पी०	0	0	85
	382/पी०	0	2	36
	376	0	0	48
	281	0	3	72
	284	0	4	20
	285	0	6	24
	286	0	5	64
	287	0	6	00

गांत्र	सर्वेक्षण मंख्या	हैक्टेर	ए. आर० ई०	पी० ए० आर० ई०
अरसोदिया				
	131	0	4	80
	129	0	8	40
	125/2	0	8	40
	122/पी	0	0	72
	122	0	3	48
	121	0	8	52
काट्टेक				
	108	0	20	52
	107/2	0	7	32
	107/1	0	14	16
	125/3	0	4	68
मेज़				
	239/पी	0	6	00
	239/पी	0	2	88
	238/2	0	3	60
	काट्टेक	0	0	72
	221/पी	0	0	30
	215/2	0	38	04
	210/पी	0	14	40
	210/पी	0	17	64
	168	0	3	00
	220	0	5	40
	219	0	5	40

[सं० 11(4)/71-लेबर एण्ड लेजिस]

इन्द्र मोहन महाय, उप सचिव ।

ELECTION COMMISSION OF INDIA

New Delhi, the 12th April 1972

S.O. 974.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order, dated the 20th March, 1972 of the High Court of Delhi in Election Petition No. 3 of 1971.

Copy of an order dated 20th March, 1972, passed by Hon'ble Mr. Justice P. N. Khanna of this Court in Election Petition No. 3 of 1971; in re: Shri Ram Swaroop Vidyarthi Vs. Shri Sohan Lal and others.

Order:—

For the Petitioner.—Memo.

For the Respondent.—Mr. D. D. Chawla with Mr. V. P. Nanda, Advocates.

P. N. Khanna J. (Oral):—

On December, 21, 1971, this case was fixed for the petitioner's evidence for February 3, 1972, on which day an application was made on this behalf praying for an adjournment, as he had not summoned any witnesses. The request was granted and it was ordered that the petitioner's evidence shall be recorded from day to day with effect from March 20, 1972, on which date the case was ordered to be listed for that purpose. The petitioner was directed to file lists of witnesses and reliance within

two weeks in the registry. The petitioner, however, did not file any list of witnesses, nor did he summon any. No list of reliance was filed. The case was put up before the Deputy Registrar on March, 2, 1972, who ordered the case to be listed before the Court on March 3, 1972. No one appeared for the petitioner in Court on March 3, 1972. The case was again listed before the Court on March 6, 1972, but none appeared for the petitioner on that date.

The case is listed for the petitioner's evidence today, but none has put in appearance on behalf of the petitioner. The petitioner himself is also absent. No steps have been taken to file a list of witnesses or to summon any witness, nor has the list of reliance been filed. There is thus default in appearance on behalf of the petitioner. The provisions of Order 9 and 17 of the Code of Civil Procedure become applicable. In this connection Mr. Chawla has drawn my attention to the case of Jugal Kishore v. Dr. Beldev Prakash, AIR 1968 Punjab and Haryana 152, which was decided by a Full Bench of that Court, presided over by Mr. Justice A. N. Grover, as he then was. According to this authority, the provisions of the Code of Civil Procedure are attracted under Section 87 of the Representation of the People Act, 1951, as there is no distinct provisions in that Act laying down any particular or special procedure, which is to be followed when the petitioner chooses to commit default either in appearan-

ce or in production of evidence or generally in prosecuting the petition.

The onus of proving all the issues in the case, is on the petitioner. He has not attempted to take any steps to discharge that onus. He himself is absent and is not represented by a counsel. The petition, therefore, is dismissed with costs. Counsel fee Rs. 500.

March 20, 1972.

(Sd.) P. N. KHANNA,
Judge.
[No. 82/DL/3/72.]
By Order,
A. N. SEN, Secy.

New Delhi, the 13th April 1972

S.O. 975.—In pursuance of section 111 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, dated the 17th March, 1972 of the High Court of Judicature, Andhra Pradesh, at Hyderabad in Election Petition No. 2 of 1971.

**IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD
ORIGINAL JURISDICTION**

Friday the seventeenth day of March, One thousand nine hundred and seventy two.

PRESENT:

The Honourable Mr. Justice Alladi Kuppuswamy.
ELECTION PETITION NO. 2 OF 1971

IN THE MATTER OF THE ELECTIONS TO THE NALGONDA PARLIAMENTARY CONSTITUENCY.
(Applicant)

V. Narasimhareddy—Petitioner.
Versus

1. K. Ramakrishnareddy.
2. U. Mallesam.

3. C. Venkateswari.
4. S. Srisailam.
5. B. Dharmabiksham.
6. The District Collector, Nalgonda (The Returning Officer, Nalgonda Parliamentary Constituency)—Respondents.

Application under section 80 and 81 of the Representation of people Act (Act No. 43 of 1951) that this High Court may be pleased to (1) declare the Election of the 1st respondent as void (2) to declare the petitioner as having been duly elected, and to grant costs of the petition.

This application coming on for orders, upon perusing the petition and the affidavit dated 24th April, 1971 and filed by deponent the applicant herein and the written statement filed by the respondents the other material papers in this case and upon hearing the arguments of Mr. N. Bhaskar Rao, Advocate for the petitioner and M/s. V. Madhava Reddy and T. Mohanreddy Advocates for the respondent No. 1, and Mr. T. Mohanreddy Advocate for the respondent No. 2 and other respondents not appearing in person or by Advocate, and the notice of the withdrawal petition herein having been published in the Gazette of India, Part IV dated 5th February, 1972 and no person having applied to the court to be substituted as a petitioner in the place of the party withdrawing, the court made the following order:

"As per order on Application No. 122/71 the Election petition is withdrawn. This petition is dismissed as withdrawn. No costs. No orders are necessary on recrimination petition."

(Sd.) P. SRIRAMA RAJU,
Additional Deputy Registrar.

[No. 82/AP/2/71.]

By Order,
V. NAGASUBRAMANIAN, Secy.